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FEDERAL REGISTER

VOLUME 33 · NUMBER 85

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Pages 6595–6696

Agencies in this issue—

The President
Atomic Energy Commission
Business and Defense Services Administration
Civil Aeronautics Board
Civil Service Commission
Coast Guard
Consumer and Marketing Service
Customs Bureau
Federal Aviation Administration
Federal Communications Commission
Federal Housing Administration
Federal Maritime Commission
Federal Power Commission
Federal Register Administrative Committee
Fiscal Service
Fish and Wildlife Service
Food and Drug Administration
Forest Service
General Services Administration
Health, Education, and Welfare Department
Indian Affairs Bureau
Interstate Commerce Commission
Land Management Bureau
National Bureau of Standards
National Park Service
Public Health Service
Securities and Exchange Commission
Smithsonian Institution

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[A cumulative checklist of CFR issuances for 1968 appears in the first issue of the Federal Register each month under Title 1]

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Title 3—THE PRESIDENT

Proclamation 3848

MOTHER'S DAY, 1968

By the President of the United States of America

A Proclamation

The hope, the courage, and the faith that guide us through all our lives are priceless gifts that go back in time beyond our first recollections. They were given us by our mothers and enriched with each passing year.

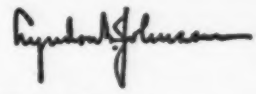
To the extent that each of us makes use of these gifts, our adult lives will reflect our faith, our compassion, and our strength to meet our problems and obligations, and to deal with them wisely and justly in the finest traditions of our national character. Thus the training and love that we receive from our mothers play mighty roles in determining the quality of our adult lives—individually, and as a Nation.

Once each year, our Nation sets aside a special day to pay tribute to our mothers. This day, pursuant to a joint resolution of the Congress approved on May 8, 1914, falls each year on the second Sunday of May.

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America, do hereby request that Sunday, May 12, 1968, be observed as Mother's Day, and I direct the appropriate officials of the Government to display the flag of the United States on all Government buildings on that day.

Let us pay a special tribute to those courageous mothers of our gallant fighting men on the battlefields of Vietnam. Let us honor both mother and son for their personal commitment to honor and duty that reflects the Nation's dedication to a search for a lasting peace.

IN WITNESS WHEREOF, I have hereunto set my hand this 29th day of April, in the year of our Lord nineteen hundred and sixty-eight, and of the Independence of the United States of America the one hundred and ninety-second.



[F.R. Doc. 68-5314; Filed, Apr. 30, 1968; 9:42 a.m.]

Executive Order 11409

AMENDING EXECUTIVE ORDER NO. 11248, PLACING CERTAIN POSITIONS IN LEVELS IV AND V OF THE FEDERAL EXECUTIVE SALARY SCHEDULE

By virtue of the authority vested in me by section 5317 of title 5 of the United States Code, as amended, Executive Order No. 11248 [1] of October 10, 1965, as amended, is further amended as follows:

1. Section 1 of that Order, placing certain positions in level IV of the Federal Executive Salary Schedule, is amended:

(a) by deleting "(3) Special Assistant to the Secretary (Food-For-Peace Program), State Department", and inserting in lieu thereof "(3) Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare";

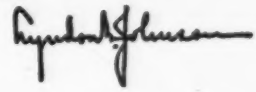
(b) by deleting "(4) Executive Secretary, President's Commission on Law Enforcement and Administration of Justice", and inserting in lieu thereof "(4) Administrator, National Institutes of Health, Department of Health, Education, and Welfare"; and

(c) by adding thereto the following:

(8) Administrator, Health Services and Mental Health Administration, Department of Health, Education, and Welfare.

(9) Executive Director, Cabinet Committee on Price Stability.

2. Section 2 of that Order, placing certain positions in level V of the Federal Executive Salary Schedule, is amended by deleting "(15) Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare", and inserting in lieu thereof "(15) Deputy Administrator, Health Services and Mental Health Administration, Department of Health, Education, and Welfare."



THE WHITE HOUSE,
April 29, 1968.

[F.R. Doc. 68-5313; Filed, Apr. 30, 1968; 9:42 a.m.]

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[1] 30 F.R. 12999; 3 CFR, 1964-65 Comp., p. 349.

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Title 1—GENERAL PROVISIONS

Chapter I—Administrative Committee of the Federal Register

CFR CHECKLIST

1968 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the issuance date and price of revised volumes and supplements of the Code of Federal Regulations issued to date during 1968. New units issued during the month are announced on the inside cover of the daily FEDERAL REGISTER as they become available.

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		Price
3	1967 Compilation	$1.00
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	52 (Rev.)	2.00
	1030–1059 (Rev.)	1.00
	1060–1089 (Rev.)	1.00
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	2–29 (Rev.)	.75
	30–39 (Rev.)	.70
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	500–599 (Rev.)	1.00
27	(Rev.)	.30
28	(Rev.)	.55
29	Parts 0–499 (Rev.)	.75
30	(Rev.)	1.25
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32	Parts:	
	400–589 (Rev.)	1.50
	590–699 (Supp.)	.50
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36	(Rev.)	.75
37	(Supp.)	.30
41	Chapters:	
	2–4 (Rev.)	.70
	5–5D (Rev.)	1.00
	19–100 (Rev.)	.55
42	(Rev.)	1.00
44	(Rev.)	.35
46	Parts 146–149 (Rev.)	2.50
47	Parts:	
	0–19 (Rev.)	1.00
	70–79 (Rev.)	1.00

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 68–121]

PART 8—LIABILITY FOR DUTIES; ENTRY OF IMPORTED MERCHANDISE

Informal Entry

An employee has called attention in an approved suggestion submitted under the incentive awards program that the requirement of an entry by appraisement for all so-called overages or dock accumulations which cannot be identified with any particular shipment results in an unnecessary expenditure of time and effort in processing the entries. The suggestor recommends therefore that the regulations be amended to permit entry of any such dock accumulation not exceeding $250 in value under the informal entry procedure. The Bureau has found that the collection of the revenue will be adequately protected under the proposed change.

To give effect to the suggestion with incidental authorization for informal entry of certain other categories of articles covered by § 8.50 when not exceeding $250 in value for which informal entry is not already authorized under § 8.51, to eliminate a conflict of language in § 8.51 concerning the use of informal entries, and to better correlate §§ 8.50 and 8.51 of the Customs Regulations, § 8.51 is amended as follows:

§ 8.50 [Amended]

Paragraph (a) is amended by deleting ", unless falling within the provisions of § 8.50," in the first sentence so that the sentence will read: "Merchandise not exceeding $250 in value may be entered on a customs Form 5119 or 5119–A."

Paragraph (a) is further amended by substituting "item number of the Tariff Schedules of the United States" for "number of the paragraph" in the fifth sentence so that the sentence will read: "Each informal entry shall contain an adequate description of the merchandise and the item number of the Tariff Schedules of the United States under which the merchandise is classified."

Paragraph (c) is amended by substituting "district director of customs" for "collector" and inserting "or an entry by appraisement, customs Form 7500, in accordance with § 8.50," after "customs Form 7501," in the first sentence and by deleting the period at the end of the second sentence and adding "or 7500." The paragraph as thus amended will read: (c) The district director of customs may, when he deems it necessary for the protection of the revenue, require a formal entry, customs Form 7501, or an entry by appraisement, customs Form 7500, in accordance with § 8.50, for any such merchandise. Individual shipments for the same consignee, when such shipments are valued at $250 or less, may be consolidated on customs Form 7501 or 7500.

(Sec. 498(a), 46 Stat. 728, as amended; 19 U.S.C. 1498(a))

[SEAL] LESTER D. JOHNSON,
Commissioner of Customs.

Approved: April 24, 1968.

JOSEPH M. BOWMAN,
Assistant Secretary of the Treasury.

[F.R. Doc. 68–5215; Filed, Apr. 30, 1968; 8:47 a.m.]

Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits; Vegetables, Nuts), Department of Agriculture

[Valencia Orange Reg. 236]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

Correction

In F.R. Doc. 68–5079 appearing at page 6285 in the issue of Thursday, April 25, 1968, § 908.536(b)(1)(i) should read "District 1: 335, 346 cartons;".

Chapter X—Consumer and Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order No. 33]

PART 1033—MILK IN GREATER CINCINNATI MARKETING AREA

Order Amending Order

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1033.91 Separability of provisions.
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AUTHORITY: The provisions of this Part 1033 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 1033.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Greater Cincinnati marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held; and

(4) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 2 cents per hundredweight or such amount not to exceed 2 cents per hundredweight as the Secretary may prescribe, with respect to milk as described in § 1033.76.

(b) *Additional findings.* (1) It is hereby found and determined that good cause exists for making this order effective May 1, 1968, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559.)

(2) The nature of the change in the Class I price contemplated herein should affect producer returns beginning with milk delivered in May 1968. This order should be issued without delay in order that dairy farmers may make necessary production plans for the immediate future. It is likewise appropriate that milk handlers know promptly and with certainty the basis upon which the Class I price which they will pay is to be determined.

(3) The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator, Regulatory Programs, was issued March 19, 1968, and the decision of the Assistant Secretary containing all the amendment provisions of this order was issued April 22, 1968. The changes effected by this order will not require extensive preparation or substantial immediate alteration in method of operation for handlers.

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Greater Cincinnati marketing area shall be in conformity to and in compliance with the terms and conditions of

the aforesaid order, as amended, and as hereby further amended, as follows:

DEFINITIONS

§ 1033.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 1033.2 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

§ 1033.3 Department.

"Department" means the U.S. Department of Agriculture or any other Federal agency authorized to perform the price reporting functions of the U.S. Department of Agriculture.

§ 1033.4 Person.

"Person" means any individual, partnership, corporation, association, or any other business unit.

§ 1033.5 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or milk products for its members; and

(c) To have all of its activities under the control of its members.

§ 1033.6 Greater Cincinnati marketing area.

"Greater Cincinnati marketing area", hereinafter called the "marketing area", means all the territory within the perimeter boundaries of the places listed below:

OHIO COUNTIES

Butler.	Hamilton.
Clermont.	Warren.

KENTUCKY COUNTIES

Boone.	Harrison.
Campbell.	Kenton.
Grant.	Pendleton.

§ 1033.7 Producer.

"Producer" means any person, except a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with inspection requirements of a duly constituted health authority for fluid consumption in the marketing area, which milk is (a) received at a pool plant, or (b) diverted as producer milk pursuant to § 1033.15. "Producer" shall not include any such person with respect to milk which is fully subject to the class pricing and producer payment provisions of another order issued pursuant to the Act.

§ 1033.8 Handler.

"Handler" means:

(a) Any person who operates one or more pool plants;

(b) Any cooperative association with respect to producer milk diverted from a pool plant to another pool plant or to a nonpool plant under § 1033.15;

(c) Any cooperative association with respect to producer milk it delivered directly from the farm to the pool plant of another handler in a tank truck or trailer owned or operated by, or under contract to, such cooperative association;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person who operates an other order plant described in § 1033.92.

§ 1033.9 Producer-handler.

"Producer-handler" means any person who is both a dairy farmer and a handler, but who receives no milk from other dairy farmers: *Provided,* That such person provides proof satisfactory to the market administrator that (a) the maintenance, care and management of all the dairy animals and other resources necessary to produce the entire amount of milk handled is the personal enterprise of and at the personal risk of such person in his capacity as a dairy farmer, and (b) the operation of a distributing plant is the personal enterprise of and at the personal risk of such person in his capacity as a handler.

§ 1033.10 Plant.

"Plant" means the land and buildings together with their surroundings, facilities and equipment, constituting a single operating unit or establishment which contains stationary milk holding facilities and is operated exclusively for the bulk handling or processing of milk or milk products. The term "plant" does not include distribution points (separate premises used primarily for the transfer to vehicles of packaged fluid milk products moved there from processing and packaging plants).

§ 1033.11 Distributing plant.

"Distributing plant" means a plant approved by any duly constituted health authority for the processing or packaging of milk for fluid consumption in the marketing area from which route disposition is made in the marketing area during the month.

§ 1033.12 Supply plant.

"Supply plant" means a plant in which some milk approved by any duly constituted health authority for fluid consumption in the marketing area is assembled and shipped in bulk as a fluid milk product to a distributing plant during the month.

§ 1033.13 Pool plant.

"Pool plant" means a plant specified under paragraph (a) or (b) of this section, except the plant of a producer-handler or a plant exempt pursuant to § 1033.92.

(a) A distributing plant with:

(1) Route disposition within the marketing area during the month of at least 15 percent of its total route disposition, such percentage to be exclusive of receipts from other plants of packaged fluid milk products priced as Class I milk under this or any other Federal order; and

(2) Total route disposition amounting to not less than 50 percent of its total receipts of Grade A milk from dairy farmers, other plants (excluding receipts of bulk fluid milk products transferred or diverted to it as Class II milk from other plants), and cooperatives as handlers pursuant to § 1033.8 (but excluding any such milk diverted from such plant to a nonpool plant by the cooperative pursuant to § 1033.15(c)). Any plant which complies with such percentage requirement during the immediately preceding month shall continue to be a pool plant during the current month even if the minimum percentage requirement under this subparagraph is not met for the current month. Any distributing plant which was subject to pooling for the month immediately preceding the effective date of this paragraph shall be deemed to be a pool distributing plant for the first three months this provision is in effect, irrespective of whether it meets the minimum percentage distribution requirements of this paragraph.

(b) A supply plant from which during the month the volume of fluid milk products shipped directly to and received at plants qualified pursuant to paragraph (a) of this section and route disposition from such plant within the marketing area, if any, is not less than 50 percent of the volume of Grade A milk received from dairy farmers at such plant (excluding receipts from other plants or as a diversion pursuant to § 1033.15). Any supply plant which meets the required percentage of this paragraph during each of the months of September through February shall continue to be so qualified for the following months of March through August, unless such operator in writing requests nonpool plant status for such plant. Such nonpool plant status shall be effective the first month following such notice and thereafter until the plant requalifies under this section on the basis of shipments. A plant which qualified as a pool plant under former § 1033.7(c) for the month immediately preceding the effective date of this paragraph shall retain pool plant status through August 31, 1968, unless nonpool

plant status is requested in the above manner.

§ 1033.14 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in the marketing area during the month of fluid milk products labeled Grade A in consumer-type packages or dispenser units.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which milk, skim milk or cream acceptable to an appropriate health authority for distribution in the marketing area under a Grade A label is shipped to a pool plant.

§ 1033.15 Producer milk.

"Producer milk" means all skim milk and butterfat contained in milk of any producer, other than milk received at a pool plant by diversion from a plant at which such milk would be fully subject to pricing and pooling under the terms and provisions of another order issued pursuant to the Act which is:

(a) Received during the month by a cooperative association as a handler under § 1033.8(c) or received at one or more pool plants. Any such milk delivered in a farm pickup tank truck (other than under § 1033.8(c)) to more than one pool plant shall be deemed to have been received at the first pool plant where any of the milk was withdrawn from the tank truck. If the milk received at a pool plant from a cooperative handler pursuant to § 1033.8(c) is purchased on a basis other than farm weights, the amount by which the total farm weights of such milk exceed the weights on which the pool plant's purchases are based shall be producer milk received by the cooperative handler pursuant to § 1033.8(c) at the location of the pool plant;

(b) Diverted during the month by a handler from a pool plant to another pool plant; or

(c) Received at a pool distributing plant during the month in an amount not less than 4 days' production of the producer and diverted during the month to a nonpool plant under the following conditions:

(1) The quantity of milk so diverted by a cooperative association for its account does not exceed 35 percent of its producer member milk received at pool distributing plants during such month, exclusive of any member milk diverted to a nonpool plant(s) for the account of a handler operating a pool plant.

(2) The quantity of milk so diverted by a proprietary handler does not exceed 35 percent of the receipts at his pool distributing plant during the month exclusive of any such milk receipts diverted for the account of a cooperative association.

(3) If milk diverted to a nonpool plant exceeds the amounts specified in subparagraphs (1) and (2) of this paragraph, eligibility as producer milk under this section shall be forfeited on the excess quantity. In such event the diverting handler shall specify the dairy farmers whose milk is ineligible as producer milk. If a handler fails to designate such dairy farmers whose milk is ineligible, producer milk status shall be forfeited with respect to all milk diverted to nonpool plants by such handler.

(d) Diverted milk shall be deemed to have been received by the handler at the location of the pool plant or nonpool plant to which the milk is diverted, except that if at least twenty days' production of the producer during the month is received at a pool distributing plant located less than 50 miles from the city hall in Cincinnati, milk of the producer diverted from the plant shall be deemed to have been received by the handler at such plant.

§ 1033.16 Fluid milk product.

Except as provided in paragraph (c) of this section, "fluid milk product" means the fluid form of:

(a) Milk, skim milk, buttermilk, flavored milk, milk drink, whipped cream, cream (sweet or sour), eggnog, concentrated milk; and

(b) Any mixture of milk, skim milk or cream including fluid, frozen, or semi-frozen malted milk and milk shake mixtures containing less than 15 percent total milk solids.

(c) Excluded from this definition are: Frozen storage cream, aerated cream in dispensers, ice cream and frozen dessert mixes, pancake mix, evaporated and condensed milk, and any sour mixture of skim milk and butterfat in nonfluid form to which cheese or any food substance other than a milk product has been added and which is disposed of as other than sour cream.

§ 1033.17 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts during the month in the form of fluid milk products, except:

(1) Producer milk (including own farm production),

(2) Such products received from other pool plants, and

(3) Sterilized cream received and disposed of in the same glass or metal hermetically sealed container, and

(b) Products other than fluid milk products from any source (including those produced at the pool plant), which are reprocessed, repackaged, or converted to another product during the month or for which other utilization or disposition is not established pursuant to § 1033.33.

§ 1033.18 Route disposition.

"Route disposition" means a delivery (including that custom-packaged for another person, and disposition from a plant store or through vendors or vending machines) of any fluid milk product to a retail or wholesale outlet either directly or through a distribution point other than a plant.

§ 1033.19 Chicago butter price.

"Chicago butter price" means the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any range as one price) per pound of Grade A (92-score) bulk creamery butter at Chicago as reported for the month by the Department.

MARKET ADMINISTRATOR

§ 1033.20 Designation.

The agency for the administration of this part shall be a market administrator, who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of the Secretary.

§ 1033.21 Powers.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 1033.22 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to, the following:

(a) Within 45 days following the date on which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Pay, out of the fund provided by § 1033.76, the cost of his bond and of the bonds of those of his employees who handle funds entrusted to the market administrator, his own compensation, and all other expenses which will necessarily be incurred by him in the maintenance

and functioning of his office and in the performance of his duties;

(d) Keep such books and records as will clearly reflect the transactions provided for in this part, and surrender the same to his successor or to such other person as the Secretary may designate;

(e) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 10 days after the date upon which he is required to perform such acts, has not made reports pursuant to § 1033.30 or has not made payments pursuant to §§ 1033.70 and 1033.72;

(f) Promptly verify the information contained in the reports submitted by handlers;

(g) Furnish such information and verified reports as the Secretary may request and submit his books and records to examination by the Secretary at any and all times;

(h) Publicly announce (by posting in a conspicuous place in his office and by such other means as he deems appropriate).

(1) On or before the fifth day of each month the minimum price for Class I milk pursuant to § 1033.51(a) and the Class I butterfat differential pursuant to § 1033.52(a) both for the current month, and the minimum price for Class II milk pursuant to § 1033.51(b) and the Class II butterfat differential pursuant to § 1033.52(b) both for the preceding month;

(2) On or before the 15th day after the end of each month the uniform price computed pursuant to § 1033.63, and the producer butterfat differential computed pursuant to § 1033.74;

(i) On or before the 12th day after the end of each month:

(1) Notify each handler of his net obligation pursuant to §§ 1033.60 and 1033.61 and of any adjustments pursuant to § 1033.62; and

(2) Report to each cooperative association the amount and class utilization of milk caused to be delivered by such association, either directly or from producers who have authorized such association to receive payments for them under § 1033.73(c), to each pool plant. For the purpose of this report the milk so received shall be prorated to each class in the proportions that the total receipts of producer milk at such plant were used in each class, adjusted to eliminate transfers of fluid milk products to other pool plants;

(j) Prepare and disseminate for the benefit of producers, consumers, and handlers, such statistics and information concerning the operation of this part as do not reveal confidential information;

(k) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1033.46(a)(9) and the corresponding step of § 1033.46(b), the market administrator shall estimate and publicly announce the ultization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(l) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1033.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(m) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

REPORTS, RECORDS, AND FACILITIES

§ 1033.30 Monthly reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler for each of his pool plants, and a cooperative association with respect to milk for which it is the handler, shall report for such month to the market administrator, in the detail and on forms prescribed by the market administrator, the following:

(a) The total pounds of skim milk and butterfat contained in or represented by:

(1) Producer milk, including own farm production and quantities diverted to nonpool plants;

(2) Fluid milk products received from other pool plants;

(3) Other source milk, with the identity of each source; and

(4) Inventories of fluid milk products on hand at the beginning and end of the month in bulk and in packaged form, separately;

(b) The utilization or disposition of all skim milk and butterfat required to be reported pursuant to this section;

(c) Such other information with respect to such receipts, utilization or disposition as the market administrator may prescribe;

(d) His producer payroll, which shall show for each producer: (1) The total pounds of milk with the average butterfat test thereof, (2) the amount of the partial payment to such producer made pursuant to § 1033.70 and the nature and amount of deductions and charges made by the handler; and

(e) The name and address of each new producer.

§ 1033.31 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler specified in § 1033.8 (d) who operates a partially regulated distributing plant shall report as required of handlers operating pool plants pursuant to § 1033.30 (a) through (c), except dairy farmer receipts of Grade A milk shall be reported in lieu of producer milk. Such report shall include a separate statement showing route disposition in the marketing area; and

(c) On or before the seventh day after the end of the month each handler who operates a partially regulated distributing plant, except one who elects to make payments pursuant to § 1033.61(b), shall report to the market administrator on forms approved by the market administrator his dairy farmer payroll which shall show for each dairy farmer, the total pounds of milk received from him with the average butterfat content thereof, and the net amount of the payment made to such dairy farmer together with the price, deductions and charges involved.

§ 1033.32 Verification of handler reports.

Each handler shall make available to the market administrator or to his agent, or to such other persons as the Secretary may designate, those records which are necessary for the verification of the information contained in the reports submitted pursuant to §§ 1033.30 and 1033.31, and those facilities which are necessary for the sampling, weighing, and testing of the milk of each producer.

§ 1033.33 Records and facilities.

Each handler required to make reports to the market administrator shall maintain, and make available to the market administrator during the usual hours of business, such accounts and records of his operations and such facilities as are necessary for the market administrator to verify reports, or to ascertain the correct information with respect to (a) the receipts and utilization of all skim milk and butterfat received, including all milk products received and disposed of in the same form; (b) the weights and tests for butterfat, and for other content, of all milk and milk products handled; and (c) payments to producers and cooperative associations.

§ 1033.34 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which such books and records pertain. If, within such 3-year period, the market administrator notifies a handler in writing that the retention of such books and records, or specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator

shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1033.40 Basis of classification.

The skim milk and butterfat which are required to be reported pursuant to § 1033.30(a) shall be classified by the market administrator, subject to the provisions of §§ 1033.41 through 1033.46.

§ 1033.41 Classes of utilization.

Subject to the conditions set forth in §§ 1033.43 and 1033.44, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except:

(i) Fluid milk products classified as Class II pursuant to paragraph (b) (2), (3), and (4) of this section;

(ii) Sterilized cream disposed of in the same glass or metal hermetically sealed container in which received; and

(iii) Fluid milk products which are fortified with the addition of milk solids shall be Class I in an amount equal only to the weight of an equal volume of an unmodified fluid milk product of the same nature and butterfat content;

(2) In inventory of fluid milk products in packaged form on hand at the end of the month; and

(3) Not accounted for as Class II milk;

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Ice cream, frozen desserts, frozen cream, cheese, butter, and pancake mix;

(ii) Ice cream and frozen dessert mixes, excluding malted milk or milk shake mixtures containing less than 15 percent total milk solids;

(iii) Milk or skim milk and cream mixtures disposed of in containers or dispensers under pressure for the purpose of dispensing a whipped or aerated product;

(iv) Any sour mixture of skim milk and butterfat in nonfluid form to which cheese or any food substance other than a milk product has been added and which is disposed of as other than sour cream;

(v) Spray and roller process nonfat dry milk; and

(vi) Evaporated and condensed milk (or skim milk) either in bulk or in hermetically sealed cans;

(2) Skim milk contained in that portion of fortified fluid milk products not classified as Class I milk pursuant to paragraph (a)(1)(iii) of this section;

(3) Disposed of in bulk as milk, skim milk or cream to any commercial food processing establishment where food products are prepared only for consumption off the premises;

(4) Specifically accounted for as dumped, spilled, or disposed of for animal feed;

(5) Contained in inventories of bulk fluid milk products on hand at the end of the month;

(6) Contained in shrinkage of skim milk and butterfat, respectively, prorated pursuant to § 1033.42(b)(1) for each pool plant and for each cooperative association in its capacity as a handler pursuant to § 1033.8(c), not to exceed the quantities calculated pursuant to subdivisions (i) through (vii) of this subparagraph:

(i) Two percent of receipts of skim milk and butterfat from producers (including receipts by a cooperative association pursuant to § 1033.8(c)) and milk diverted in bulk tank lots from another pool plant pursuant to § 1033.15;

(ii) Plus 1.5 percent of milk received by transfer from other pool plants in bulk;

(iii) Plus 1.5 percent of milk received in bulk from cooperative associations in their capacity as handlers pursuant to § 1033.8(c), except that if the handler operating the pool plant files with the market administrator, prior to the first day of the month, notice that he is purchasing such milk on the basis of farm weights determined by farm bulk tank calibration and butterfat tests determined from farm bulk tank samples, the applicable percentage shall be 2 percent;

(iv) Plus 1.5 percent of receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler;

(v) Plus 1.5 percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler;

(vi) Less 1.5 percent of bulk transfers of milk to a pool plant of another handler;

(vii) Less 1.5 percent of bulk transfers of milk to nonpool plants;

(7) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1033.42(b)(2).

§ 1033.42 Shrinkage.

The market administrator shall:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, at each pool plant; and

(b) If other source milk is received at the pool plant, shrinkage at such plant shall be prorated between:

(1) Skim milk and butterfat, respectively, in the amounts of receipts used in the computations pursuant to § 1033.41(b)(6); and

(2) Skim milk and butterfat in other source milk in bulk fluid form, exclusive of that specified in § 1033.41(b)(6).

§ 1033.43 Transfers.

Skim milk or butterfat in the form of a fluid milk product disposed of by a handler from a pool plant shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred or diverted from a pool plant to another pool plant, subject to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1033.46 (a)(9) and (b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1033.46(a)(4), the skim milk and butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk;

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1033.46(a) (8) or (9) and (b), the skim milk and butterfat so transferred or diverted up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant; and

(4) Movements in bulk to a pool supply plant from another pool plant, shall be Class II utilization to the extent such utilization is available at the receiving plant after the computations pursuant to § 1033.46 (a)(9) and (b);

(5) Movements in bulk between pool distributing plants shall be assigned to each class at the transferee plant in sequence beginning with Class II milk when the producer milk received during the month exceeds 115 percent of Class I milk at such plant after the computations pursuant to § 1033.46 (a)(9) and (b).

(b) As Class I milk, if moved from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1033.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred or diverted shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Route disposition in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines consti-

tute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Route disposition in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of fluid milk products from such nonpool plants;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply of fluid milk products for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it; the skim milk and butterfat so transferred or diverted shall be classified as Class II milk; and

(d) As follows, if transferred or diverted to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in consumer packages, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred or diverted in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1033.41.

§ 1033.44 Responsibility of handler and reclassification of milk.

(a) Except as provided in paragraph (b) of this section, all skim milk and butterfat shall be classified as Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise.

(b) Producer milk in bulk delivered by a cooperative association as a handler under § 1033.8(c) to the pool plant of another handler or caused to be diverted by the cooperative association from one pool plant to another, shall be deemed to be received as producer milk at the receiving plant and shall be classified according to use or disposition thereat, and the value thereof at the class prices shall be included in the net pool obligation computed for such handler pursuant to § 1033.60. For purposes of location adjustments pursuant to § 1033.53 and administrative expense pursuant to § 1033.76, such milk shall be treated as producer milk of the receiving handler.

§ 1033.45 Computation of skim milk and butterfat in each class.

For each month the market administrator shall correct for mathematical and for other obvious errors the reports of receipts and utilization of each handler and shall compute the pounds of butterfat and skim milk in Class I milk and Class II milk for such handler. If any of the water contained in the milk from which a product is made, is removed before the product is utilized or disposed of by the handler, the pounds of skim milk disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product plus all of the water normally associated with such solids in the form of whole milk.

§ 1033.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1033.45, the market administrator shall determine the classification of producer milk received at each pool plant, and by a cooperative association in its capacity as a handler, each month as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1033.41(b)(6);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Except for the first month this subparagraph is effective with respect to each handler, subtract from the remaining pounds of skim milk in Class I, the pounds of skim milk in inventory of fluid milk products in packaged form on hand at the beginning of the month;

(4) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(5) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(*a*) Multiply the pounds of skim milk remaining in Class I milk (excluding Class I transfers between pool plants of the handler) at all pool plants of the handler by 1.25;

(*b*) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants; and

(*c*)(*1*) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

(*2*) Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, but not in excess of the pounds of skim milk remaining in Class II milk if Class II utilization was requested by the operator of such plant and the handler;

(6) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of bulk fluid milk products (and for the first month this subparagraph is effective with respect to each handler the pounds of fluid milk products in packaged form) on hand at the beginning of the month;

(7) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(8) (i) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (5) (i) or (ii) of this paragraph;

(ii) Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (5) (iii) of this paragraph pursuant to the following procedure:

(i) Subject to the provisions of subdivisions (ii) and (iii) of this subparagraph, such subtraction shall be prorata to whichever of the following represents the higher proportion of all Class II milk:

(a) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1033.22(k); or

(b) The pounds of skim milk in each class remaining at all pool plants of the handler;

(ii) Should proration pursuant to subdivision (i) of this subparagraph result in the total pounds of skim milk to be subtracted from Class II at all pool plants of the handler exceeding the pounds of skim milk remaining in Class II at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which received;

(iii) Except as provided in subdivision (ii) of this subparagraph, should proration pursuant to either subdivision (i) or (ii) of this subparagraph result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(10) Subtract from the pounds of skim milk remaining in each class, the pounds of skim milk received in fluid milk products from other pool plants according to classification under § 1033.43(a); and

(11) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

MINIMUM PRICES

§ 1033.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent. For the purpose of computing Class I prices from the effective date hereof through April 1969, the basic formula price shall be not less than $4.33.

§ 1033.51 Class prices.

Subject to the provisions of § 1033.52 and § 1033.53, the class prices for milk per hundredweight for the month shall be determined by the market administrator as follows:

(a) *Class I milk.* The price for Class I milk shall be the basic formula price for the preceding month plus $1.34 plus 20 cents through April 1969, and plus or minus a "supply-demand adjustment" of not more than 39 cents computed pursuant to subparagraphs (1) and (2) of this paragraph:

(1) Divide the aggregate pounds of producer milk in Class I milk (including inventory and "overage", but adjusted to eliminate duplications due to interhandler and intermarket plant transfers) under this part and under Part 1034 of this chapter (Miami Valley, Ohio, order) for the second, third, and fourth months preceding by the aggregate pounds of producer milk receipts under such parts for the same months, multiply the result by 100 and round to the nearest whole number. The result shall be known as the "Class I utilization percentage";

(2) For each full percentage point that the Class I utilization percentage is above the applicable maximum standard utilization percentage listed below increase the Class I price differential by 3 cents; and for each full percentage point that the Class I utilization percentage is below the applicable minimum standard utilization percentage listed below decrease such differential by 3 cents.

Month for which price is being computed	Preceding months used in computation	Standard utilization percentages	
		Minimum	Maximum
Jan.	Sept., Oct., Nov.	66	69
Feb.	Oct., Nov., Dec.	68	71
Mar.	Nov., Dec., Jan.	69	72
Apr.	Dec., Jan., Feb.	68	71
May	Jan., Feb., Mar.	68	71
June	Feb., Mar., Apr.	66	69
July	Mar., Apr., May	60	63
Aug.	Apr., May, June	54	57
Sept.	May, June, July	52	55
Oct.	June, July, Aug.	53	56
Nov.	July, Aug., Sept.	58	61
Dec.	Aug., Sept., Oct.	62	65

(3) For the third month this subparagraph is effective, the monthly ending inventory of packaged fluid milk products for the month preceding such month shall be deducted in computing the three months' Class I milk total under subparagraph (1) of this paragraph and the same adjusted monthly Class I milk total shall be used in the 2 successive 3 months' Class I milk total in subparagraph (1) of this paragraph.

(b) *Class II milk.* The Class II milk price shall be the basic formula price for the month except that in no event shall such price exceed an amount computed from the sum of subparagraphs (1) and (2) of this paragraph rounded to the nearest cent, plus 10 cents:

(1) From the Chicago butter price, subtract 3 cents, add 20 percent of the resulting amount and then multiply by 3.5; and

(2) From the weighted average of carlot prices per pound of spray process nonfat dry milk for human consumption, f.o.b. Chicago area manufacturing plants, as published for the month by the Department subtract 5.5 cents, multiply by 8.5 and then multiply by 0.965.

§ 1033.52 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices for the month calculated pursuant to § 1033.51 shall be increased or decreased, respectively, for each one-tenth percent

butterfat at the appropriate rate, rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I price.* Multiply the Chicago butter price for the preceding month by 0.120.

(b) *Class II milk.* Multiply the Chicago butter price for the month by 0.115.

§ 1033.53 Location differentials to handlers.

(a) For (1) that skim milk and butterfat in producer milk received at a pool plant located 50 or more miles by the shortest highway distance from the city hall in Cincinnati, Ohio, as determined by the market administrator, and which is (i) moved in the form of a fluid milk product to a pool plant located less than 50 miles from the city hall in Cincinnati, Ohio, and assigned Class I location adjustment credit pursuant to paragraph (b) of this section or (ii) otherwise disposed of as Class I milk, and (2) other source milk for which a location adjustment credit is applicable, the handler's obligation pursuant to § 1033.60 shall be reduced at the rate set forth in the following schedule:

Distance from city hall (miles):	*Rate per hundredweight (cents)*
Less than 50	0
50 but less than 60	10.0
For each 10 miles or fraction thereof in excess of 60 miles an additional	1.5

(b) (1) Fluid milk products received by a handler at a pool distributing plant from another pool plant under paragraph (a)(1) of this section shall be assigned, for Class I location adjustment credit, to the remaining Class I milk at the transferee plant after the application of § 1033.46(a) (1) through (9), on a prorata basis with the aggregate receipts at such plant of producer milk.

(2) If milk eligible for location credit under this paragraph is received from more than one plant, assignment shall be made in sequence beginning with the plant at which the least location adjustment would apply.

§ 1033.54 Use of equivalent prices.

If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

COMPUTATION OF UNIFORM PRICE

§ 1033.60 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, computed pursuant to § 1033.46(c), by the applicable class prices and add the resulting amount. Subtract the location differential credits calculated pursuant to § 1033.53;

(b) Add the amounts obtained from multiplying the pounds of overage deducted from each class pursuant to § 1033.46(a)(11) and the corresponding step of § 1033.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1033.46(a)(6) and the corresponding step of § 1033.46(b);

(d) Add an amount determined by multiplying the difference between the Class I price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1033.46(a)(3) and the corresponding step of § 1033.46(b). If the Class I price for the current month is less than the Class I price for the preceding month the result shall be a minus amount;

(e) Add an amount equal to the difference between the value at the Class I price and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1033.46(a)(4) and the corresponding step of § 1033.46(b);

(f) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1033.46(a)(8) and the corresponding step of § 1033.46(b).

§ 1033.61 Obligations of a handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 14th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to § 1033.31 (b) and (c) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1033.60 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1033.60(e) and a credit in the amount specified in § 1033.72(b) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to § 1033.31 (b) and (c) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1033.13(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as route disposition (other than to pool plants) in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class II price).

§ 1033.62 Correction of errors.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses adjustments to be made, for any reason, which result in monies due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any such amount due, and payment thereof shall be made on or before the next date for making payment set forth in the provision under

which such error occurred following the fifth day after such notice.

§ 1033.63 Computation of uniform prices.

For each month the market administrator shall compute the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1033.60 for all handlers who filed the reports prescribed by § 1033.30 for the month and who made the payments pursuant to § 1033.72 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1033.75;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1033.74 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations;

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to §1033.60(e);

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price", and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (e)(2) of this section by the weighted average price;

(h) Subtract for each month of April through July the amount obtained by multiplying the hundredweight of producer milk included in these computations by a rate that is equal to 6 percent of the average basic formula price (computed to the nearest cent) for the preceding calendar year but that is not more than 25 cents;

(i) Add for each month of September through December, one-fourth of the total amount subtracted pursuant to paragraph (h) of this section for the preceding months of April through July;

(j) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(k) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

PAYMENTS FOR MILK

§ 1033.70 Payments to producers.

(a) On or before the 27th day of each month each handler shall pay to each producer who did not discontinue shipping milk to such handler before the 15th day of the month, not less than $3 for each hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph; and

(b) Payments required in paragraph (a) of this section shall be made to a cooperative association, qualified under § 1033.5, or its duly authorized agent, with respect to milk of producers which the market administrator determines have authorized such cooperative association to collect payment for their milk and the cooperative association has presented the handler with a written request for such payments. Payments to the cooperative association under this paragraph shall be made one day in advance of the applicable payment date in paragraph (a), subject to the condition that the association has provided the handler with a written promise to reimburse the handler the amount of any actual loss incurred by such handler because of any improper claim with respect to such payments on the part of the cooperative association.

§ 1033.71 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund, known as the "producer-settlement fund", which shall function as follows:

(a) All payments made by handlers pursuant to §§ 1033.61 (a) and (b) and 1033.72 shall be deposited in this fund, and all payments made pursuant to § 1033.73 shall be made out of this fund;

(b) All amounts subtracted pursuant to § 1033.63(h) shall be deposited in this fund and shall remain therein as an obligated balance until withdrawn for the purpose of effectuating § 1033.63(i); and

(c) The difference between the amount added pursuant to § 1033.63(d) and the amount resulting from the subtraction pursuant to § 1033.63 (f) or (k) shall be deposited in, or withdrawn from, this fund, as the case may be.

§ 1033.72 Payments to producer-settlement fund.

On or before the 14th day after the end of each month, each handler shall pay to the market administrator his obligation for milk for such month of which he is notified pursuant to § 1033.22(i)(1) which shall consist of the amount specified in paragraph (a) of this section minus the amount of the credit in paragraph (b) of this section, less the amount paid out to each producer in accordance with § 1033.70, and less the amount of the deductions and charges authorized by such producer which are itemized on the handler's producer payroll:

(a) The total of the net pool obligation computed pursuant to § 1033.60 for such handler;

(b) The value at the weighted average price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which values are computed pursuant to § 1033.60(e).

In the calculation of the total amount of the deductions and charges to be subtracted, the deductions and charges to be considered with respect to each individual producer shall not be greater than an amount which, when added to the payment made to such producer in accordance with § 1033.70 (inclusive of the deductions and charges authorized by § 1033.70) will not exceed the total value of the milk received from such producer.

§ 1033.73 Payments from producer-settlement fund.

(a) The market administrator shall compute the payment due each producer for milk received during the month from such producer by a handler(s) who made the payments for such month pursuant to § 1033.72, by multiplying the hundredweight of such milk by the uniform price computed pursuant to § 1033.63 adjusted by the location differential pursuant to § 1033.75 and the butterfat differential pursuant to § 1033.74, and subtracting any charges and deductions made pursuant to § 1033.72.

(b) On or before the 17th day of the following month, the market administrator shall pay, subject to the provision of § 1033.77, direct to each producer who has not authorized a cooperative association to receive payments for such producer, the amount of the payment calculated for such producer pursuant to paragraph (a) of this section.

(c) On or before the 16th day of the following month, the market administrator shall pay to each cooperative association authorized to receive payments due producers who market their milk through such cooperative association, the aggregate of payment calculated pursuant to paragraph (a) of this section, for all producers certified to the market administrator by such cooperative association as having authorized such cooperative association to receive such payment.

§ 1033.74 Butterfat differential to producers.

In computing the payments due each producer for milk pursuant to § 1033.73, there shall be added to or subtracted from the uniform price per hundredweight for each one-tenth of 1 percent of butterfat content in such milk above or below 3.5 percent, as the case may be, a butterfat differential computed by the market administrator as follows:

(a) Compute the percentage of the total butterfat in producer milk assigned to each class pursuant to § 1033.46;

(b) Multiply each such percentage figure by the butterfat differential for the respective class pursuant to § 1033.52; and

(c) Add into one total the value obtained in paragraph (b) of this section, rounding off the result to the nearest even one-tenth cent.

§ 1033.75 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1033.53; and

(b) For purposes of computations pursuant to § 1033.72 the weighted average price shall be adjusted at the rates set forth in § 1033.53 applicable at the location of the nonpool plant from which the milk was received.

§ 1033.76 Expense of administration.

As his prorata share of the expense of administration of the order, each handler (excluding a cooperative association in its capacity as a handler pursuant to § 1033.8(c) with respect to milk delivered to pool plants) shall pay to the market administrator on or before the 14th day after the end of the month, 2 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to §§ 1033.46(a)(4) and 1033.46(a)(8) and the corresponding step of § 1033.46(b); and

(c) Packaged Class I milk disposed of from partially regulated distributing plants as route disposition in the marketing area that exceeds the hundredweight of Class I milk received during the month at such plants from pool plants and other order plants.

§ 1033.77 Marketing services.

(a) The market administrator shall deduct an amount not exceeding 6 cents per hundredweight (the exact amount to be determined by the market administrator) from the payments made pursuant to § 1033.73(b), with respect to the milk of those producers for whom the marketing services set forth in paragraph (b) of this section are not being performed by a cooperative association for the purpose of performing the services set forth in paragraph (b) of this section.

(b) The monies received by the market administrator pursuant to paragraph (a) of this section shall be expended by the market administrator for market information to, and for the verification of weights, samples, and tests of milk of producers for whom a cooperative association, as described in paragraph (a) of this section, is not performing the same services on a comparable basis, as determined by the market administrator, subject to review by the Secretary.

§ 1033.78 Termination of obligation.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such 2-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to a cooperative association, the name of such producers or cooperative association, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part, shall terminate 2 years after the end of the calendar month during which milk involved in the claim was received if an underpayment is claimed, or 2 years after the end of the calendar month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c(15)(A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 1033.80 Effective time.

The provisions of this part, or any amendments to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 1033.81 Suspension or termination.

Any or all provisions of this part, or amendments to this part, shall be suspended or terminated as to any or all handlers after such reasonable notice as the Secretary may give, and shall terminate in any event, whenever the provisions of the act authorizing it cease to be in effect.

§ 1033.82 Continuing power and duty of the market administrator.

If upon the suspension or termination of any or all provisions of this part, there are any obligations arising under this part, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination. Any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate. The market administrator, or such other person as the Secretary may designate, shall continue in such capacity until removed by the Secretary, account from time to time for all receipts and disbursements and, when so directed by the Secretary, deliver all funds on hand, together with the books and records of the market administrator, or such other person to such person as the Secretary shall direct, and execute, if so directed by the Secretary, such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

§ 1033.83 Liquidation after suspension or termination.

Upon the suspension or termination of any or all provisions of this part the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amount necessary to meet outstanding obligations and the expense necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1033.90 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 1033.91 Separability of provisions.

If any provision of this part, or its application to any persons or circumstances, is held invalid the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

§ 1033.92 Plants subject to other Federal orders.

The provisions of this part shall not apply to a distributing plant or a supply plant during any month in which the milk at such plant would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless such plant meets the requirements for a pool plant pursuant to § 1033.13 and a greater volume of fluid milk products is disposed of from such plant to pool plants and to retail or wholesale outlets located in the Greater Cincinnati marketing area than in the marketing area regulated pursuant to such other order during the current month and each of the 3 months immediately preceding. The operator of a distributing plant or a supply plant which is exempt from the provisions of this order pursuant to this section shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

Effective date: May 1, 1968.

Signed at Washington, D.C., on April 25, 1968.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 68-5162; Filed, Apr. 30, 1968; 8:45 a.m.]

[Milk Order No. 40]

PART 1040—MILK IN SOUTHERN MICHIGAN MARKETING AREA

Order Amending Order

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AUTHORITY: The provisions of this Part 1040 issued under sections 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

§ 1040.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Southern Michigan marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the Act:

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* (1) It is hereby found and determined that good cause exists for making this order effective May 1, 1968, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551-559.)

(2) The nature of the change in the Class I price contemplated herein should affect producer returns beginning with milk delivered in May 1968. This order should be issued without delay in order that dairy farmers may make necessary production plans for the immediate future. It is likewise appropriate that milk handlers know promptly and with certainty the basis upon which the Class I price which they will pay is to be determined.

(3) The provisions of the said order are known to handlers. The revised recommended decision of the Deputy Administrator, Regulatory Programs, was issued March 4, 1968, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued April 15, 1968. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers.

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Southern Michigan marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

DEFINITIONS

§ 1040.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 1040.2 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ 1040.3 U.S.D.A.

"U.S.D.A." means the United States Department of Agriculture.

§ 1040.4 Person.

"Person" means any individual, partnership, corporation, association, or any other business unit.

§ 1040.5 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers, which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and is engaged in making collective sales or marketing milk or its products for its members; and

(c) To have all of its activities under the control of its members.

§ 1040.6 Southern Michigan marketing area.

"Southern Michigan marketing area", hereinafter refered to as the "marketing area", means all territory geographically within the places listed below, together with all piers, docks, and wharves connected therewith and all craft moored thereat, and all territory wholly or partly therein occupied by Government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments.

MICHIGAN COUNTIES

Alcona.
Allegan (Dorr, Leighton, Hopkins, Wayland, Watson, Martin, Otsego, and Gunplain Townships only).
Alpena.
Arenac.
Barry.
Bay.
Calhoun.
Clare.
Clinton.
Eaton.
Genesee.
Gladwin.
Gratiot.
Huron.
Ingham.
Ionia.
Iosco.
Isabella.
Jackson.
Kalamazoo.
Kent.
Lake.
Lapeer.
Livingston.
Macomb.
Mecosta.
Midland.
Mason.
Missaukee.
Monroe (Ash and Berlin Townships only).
Montcalm.
Montmorency.
Muskegon.
Newaygo.
Oakland.
Ottawa.
Oceana.
Ogemaw.
Osceola.
Oscoda.
Presque Isle (Krakow and Presque Isle Townships only).
Roscommon.
Saginaw.
St. Clair.
Sanilac.
Shiawassee.
Tuscola.
Wastenaw.
Wayne.

§ 1040.7 Handler.

"Handler" means:

(a) Any person who operates a pool plant;

(b) Any person who operates a partially regulated distributing plant;

(c) Any cooperative association with respect to milk of its member producers which is delivered directly from the farm to the pool plant of another handler in a tank truck owned, operated by, or under contract to such cooperative association for the account of such cooperative association (such milk shall be considered as having been received by such cooperative association at a location identical to that of the pool plant to which it is delivered);

(d) Any cooperative association with respect to producer milk diverted from a pool plant to a nonpool plant for the account of such association;

(e) Any person in his capacity as the operator of an other order plant from which fluid milk products are distributed on routes in the marketing area or shipped to a pool plant; and

(f) Any producer-handler.

§ 1040.8 Producer.

"Producer" means any person, other than a producer-handler under any Federal order, who produces milk, approved by any duly constituted health authority for fluid consumption in the marketing area, which is moved to a pool plant, or to any other plant by diversion from a pool plant. The term shall include such a person with respect to milk diverted to a pool plant from an other order plant (unless designated for Class III use) during any month in which the quantity diverted is greater than the quantity of milk physically received from such person at the plant from which diverted and such milk is exempt from the pooling provisions of the other order.

§ 1040.9 Producer-handler.

"Producer-handler" means a person who:

(a) Operates a dairy farm and a milk plant from which fluid milk products are distributed in the marketing area and who received fluid milk products only from his own production or by transfer from a pool plant; and

(b) Provides proof that (1) the care and management of all dairy animals and other resources necessary to produce the entire volume of fluid milk products handled (excluding receipts by transfer from a pool plant); and (2) the operation of the processing business is the personal enterprise and risk of such person.

§ 1040.10 Producer milk.

"Producer milk" means all skim milk and butterfat contained in milk received from producers at a pool plant or by a cooperative association in its capacity as a handler pursuant to § 1040.7 (c) and (d) and that diverted to a nonpool plant by the operator of a pool plant, except milk which is subject to pooling under another Federal order.

§ 1040.11 Other source milk.

"Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month of fluid milk products except (1) receipts from other pool plants, (2) producer milk and (3) that received from a cooperative association pursuant to § 1040.7(c); and

(b) Products, other than fluid milk products, from any source (including those produced at the pool plant) which are reprocessed or converted to another product in the pool plant during the month.

§ 1040.12 Fluid milk product.

"Fluid milk product" means milk, skim milk, flavored milk, buttermilk, yogurt, cream (exclusive of frozen and sour cream), and any mixture in fluid form of cream and milk or skim milk (except storage cream, aerated cream products, ice cream mix, evaporated or condensed milk and sterilized products packaged in hermetically sealed containers).

§ 1040.13 Route.

"Route" means a delivery (including a delivery by a vendor or sale from a

plant or plant store) of any fluid milk product (except bulk cream) classified as Class I to a wholesale or retail outlet other than a delivery to any milk plant.

§ 1040.14 Distributing plant.

"Distributing plant" means a plant in which milk approved by any duly constituted health authority for fluid consumption in the marketing area is processed or packaged and from which fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area.

§ 1040.15 Supply plant.

"Supply plant" means a plant in which milk approved by any duly constituted health authority for fluid consumption in the marketing area is assembled and either processed or shipped in the form of a bulk fluid milk product to another milk processing plant.

§ 1040.16 Pool plant.

"Pool plant" means:

(a) A distributing plant, other than a producer-handler plant or plants exempt pursuant to § 1040.90 and § 1040.91, from which total distribution of fluid milk products on routes during the month or during either of the 2 months immediately preceding is not les than 50 percent of receipts of producer milk and fluid milk products from supply plants and cooperative associations pursuant to § 1040.7(c).

(b) A supply plant which during the month meets one of the performance requirements specified in subparagraphs (1), (2), (3), or (4) of this paragraph and any applicable call percentage: *Provided*, That all supply plants which are operated by one handler, or all the supply plants for which a handler is responsible for meeting the performance requirements of this paragraph (b) under a marketing agreement certified to the market administrator by both parties may be considered as a unit for the purpose of meeting the performance requirements of subparagraphs (1), (2), (3), or (4) of this paragraph (b) upon written notice to the market administrator specifying the plants to be considered as a unit and the period during which such consideration shall apply. Such notice, and notice of any change in designation, shall be furnished on or before the fifth working day following the month to which the notice applies. In any months of February through September a unit shall not contain any plant which was not qualified as a pool plant either individually or as a member of a unit during the previous October through January.

(1) A plant from which not less than 25 percent or the call percentage, whichever is higher, of receipts of producer milk and receipts for which a cooperative association is the handler pursuant to § 1040.7(c), less any milk disposed of from the plant as Class I other than by transfer to pool plants of other handlers, is moved to a pool distributing plant. If such plant has met the required percentage during each of the months of October through January, it shall be a pool plant for each of the following months of February through September during which it meets any announced call percentage.

(2) A plant operated by a cooperative association which supplies pool distributing plants with member producer milk, either by shipment from such plant or by direct delivery from the farm, in a total amount not less than one-half or the call percentage, whichever is higher, of the aggregate receipts of fluid milk products at all pool distributing plants.

(3) A plant operated by a cooperative association which supplies pool distributing plants, either by shipment from such supply plant or by direct delivery from the farm, (i) not less than one-half of its total member producer milk in the current month, or (ii) if such plant were a pool plant in each of the preceding 13 months, not less than one-half of its total member producer's milk for the second through the 13th preceding months, except that in either case an announced call percentage exceeding 50 percent in the current month must be met.

(4) A plant operated by a cooperative association which supplies pool plants of other handlers, by direct delivery from the farm, with not less than two-thirds or the call percentage, whichever is higher, of its total member producer milk.

§ 1040.17 Call percentage.

"Call percentage" means the percentage computed by the market administrator in addition to the minimum percentage pooling requirements applicable to supply plants and cooperative associations under § 1040.16(b). A call percentage of not less than 25 percent may be computed and announced for each month except April, May, June, and July as follows:

(a) Estimate the pounds of Class I milk utilization for the month, including an additional 15 percent thereof as an operating margin, at pool distributing plants that received milk from pool supply plants pursuant to § 1040.16(b) during each of the immediately preceding 12 months;

(b) Subtract from the Class I milk estimated pursuant to paragraph (a) of this section, the estimated pounds of milk which will be received at such pool distributing plants during the month from (1) producers' farms, (2) pool plants pursuant to § 1040.16(b) that regularly shipped their entire available supply of producer milk to pool plants in each month of the immediately preceding August through March period, and (3) cooperative associations pursuant to § 1040.7(c);

(c) Divide the remaining pounds of Class I milk by the estimated receipts of producer milk at pool plants pursuant to § 1040.16(b) except those described in paragraph (b)(2) of this section (after subtracting any milk estimated to be disposed of as Class I other than transfers to other pool plants);

(d) Multiply the result by 0.75;

(e) The announcement of the call percentage shall be made on or before the first day of the month to which it applies and shall set forth the data on which the estimates of Class I utilization and supplies are based together with appropriate explanatory comments on the computations involved;

(f) The market administrator may reduce the call percentage at any time during the month if he determines that more milk than is needed for Class I use is being delivered to distributing plants.

§ 1040.18 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the class pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined under this or any other Federal order issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which a fluid milk product approved by any duly constituted health authority for fluid consumption in the marketing area is shipped during the month to a pool plant.

§ 1040.19 Base milk.

"Base milk" means the amount of milk delivered by a producer each month which is not in excess of his base computed pursuant to § 1040.70 multiplied by the number of days for which his milk production is delivered during the month.

§ 1040.20 Excess milk.

"Excess milk" means milk delivered by a producer each month in excess of his base milk.

MARKET ADMINISTRATOR

§ 1040.25 Market administrator.

The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal by, the Secretary.

§ 1040.26 Powers.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 1040.27 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including, but not limited to, the following:

(a) Within 30 days following the date on which he enters upon his duties, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay, out of the funds provided by § 1040.86:

(1) The cost of his bond and of the bonds of his employees;

(2) His own compensation; and

(3) All other expenses, except those incurred under § 1040.87, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided in this part, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly announce, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office, and by such other means as he deems appropriate, the name of any person who, within 10 days after the day upon which he is required to perform such acts, has not made:

(1) Reports pursuant to §§ 1040.30 and 1040.31; or

(2) Payments pursuant to §§ 1040.80 through 1040.87;

(g) Calculate a base for each producer in accordance with § 1040.70 and advise the producer and the handler receiving the milk of such base;

(h) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(i) Audit records of all handlers to verify the reports and payments required pursuant to the provisions of this part;

(j) Prepare and disseminate to producers, handlers and the public, general information which does not reveal confidential information;

(k) Compute and publicly announce the prices determined for each month as follows:

(1) On or before the sixth day of each month, the Class I price computed pursuant to § 1040.51 for the current month; and the Class II price computed pursuant to § 1040.52, the Class III price computed pursuant to §1040.52a and the handler and producer butterfat differentials computed pursuant to §§ 1040.53 and 1040.82, for the preceding month;

(2) On or before the 11th day of each month, the uniform price, the adjusted uniform price, the price for base milk and the price for excess milk for the preceding month, computed pursuant to §§ 1040.62, 1040.63, 1040.64, and 1040.65.

(l) Whenever required for purposes of allocating receipts from other order plants pursuant to § 1040.46(a)(9) and the corresponding step of § 1040.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1040.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

HANDLER REPORTS, RECORDS, AND FACILITIES

§ 1040.30 Monthly reports of receipts and utilization.

On or before the fifth working day of each month, each handler other than a handler exempt pursuant to §§ 1040.90, 1040.91, or 1040.92, shall report to the market administrator for the preceding month in the detail and on the forms prescribed by the market administrator as follows:

(a) The quantities of skim milk and butterfat contained in:

(1) Milk received from producers (or from qualified dairy farmers, in case of a nonpool plant) including the aggregate quantities of base milk, excess milk, and milk to be paid for either at the uniform or adjusted uniform price;

(2) Fluid milk products received from other pool plants and cooperative associations pursuant to § 1040.7(c);

(3) All other source milk; and

(4) Inventories of fluid milk products on hand at the beginning and end of the month in bulk and in packaged form, separately;

(b) The utilization of all skim milk and butterfat required to be reported pursuant to paragraph (a) of this section. Such report by each handler pursuant to § 1040.7(b) shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk; and

(c) Such other information as the market administrator may prescribe.

§ 1040.31 Other reports.

(a) Each producer-handler and each handler described in §§ 1040.90 and 1040.91 shall make reports at such time and in such manner as the market administrator may request; and

(b) On or before the 20th day of each month each handler who received milk from producers shall report his producer payroll for the preceding month which shall show:

(1) The pounds of base milk and pounds of excess milk, or the pounds of milk to be paid for at the uniform or adjusted uniform price, received from each producer, and the percentage of butterfat contained therein;

(2) The amount and date of payment to each producer (or to a cooperative association); and

(3) The nature and amount of each deduction or charge involved in the payments referred to in subparagraph (2) of this paragraph.

§ 1040.32 Records and facilities.

Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of all of his operations and such facilities as are necessary to verify reports, or to ascertain the correct information with respect to (a) the receipts and utilization or disposition of all skim milk and butterfat received, including all milk products received and disposed of in the same form; (b) the weights and tests for butterfat, skim milk, and other contents of all milk and milk products handled; and (c) payments to producers and cooperative associations.

§ 1040.33 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which such books and records pertain. If within such 3-year period, the market administrator notifies a handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the act or a court action specified in such notice, the handler shall retain such books and records until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION OF MILK

§ 1040.40 Skim milk and butterfat to be classified.

All skim milk and butterfat received at a pool plant which is required to be reported pursuant to § 1040.30 shall be classified pursuant to §§ 1040.41 through 1040.46.

§ 1040.41 Classes of utilization.

Subject to the conditions set forth in §§ 1040.43 and 1040.44, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product except as provided in paragraph (c) (2), (3), and (4) of this section;

(2) In inventory of fluid milk products in packaged form on hand at the end of the month; and

(3) Not accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat used to produce or added to cottage cheese and cottage cheese curd, except cottage cheese and cottage cheese curd disposed of as livestock feed or dumped after prior notification to and opportunity for verification by the market administrator.

(c) *Class III milk.* Class III milk shall be:

(1) Skim milk and butterfat used to produce any product other than those products designated as Class I or Class II pursuant to paragraphs (a) and (b) of this section;

(2) Skim milk and butterfat disposed of in fluid milk products in bulk form to any commercial food processing establishment for use in food products prepared for consumption off the premises;

(3) Skim milk and butterfat (including cottage cheese and cottage cheese curd) disposed of as livestock feed or skim milk (including cottage cheese and cottage cheese curd) dumped subject to prior notification to and inspection (at his discretion within 18 hours) by the market administrator;

(4) Skim milk represented by the nonfat milk solids added to a fluid milk product which is in excess of the weight of an equivalent volume of fluid milk products prior to such addition;

(5) Skim milk and butterfat in frozen cream;

(6) Skim milk and butterfat contained in inventory of bulk fluid milk products on hand at the end of the month;

(7) Skim milk and butterfat, respectively, in shrinkage as computed pursuant to § 1040.42 (a) and (b); and

(8) Skim milk and butterfat, respectively, in shrinkage assigned pursuant to § 1040.42(d)(ii).

§ 1040.42 Shrinkage.

The market administrator shall allocate shrinkage to a handler's receipts as follows:

(a) The quantities of skim milk and butterfat, respectively, to be classified as Class III pursuant to § 1040.41(c)(7) shall not exceed 2 percent (except as provided in paragraph (b) of this section) with respect to skim milk and butterfat received as follows:

(i) Producer milk physically received at a pool plant;

(ii) Bulk receipts of fluid milk products from other order plants or from unregulated supply plants, exclusive of the quantities for which Class III was requested by the handler(s) involved.

(b) Two percent with respect to receipts from a cooperative association handler under § 1040.7(c) if settlement with the association is on the basis of weights and tests determined at the farm and the market administrator is so notified of such basis of settlement on or before the handler submits his monthly report pursuant to § 1040.30; otherwise the maximum shrinkage allowance to the handler on such milk shall be 1½ percent and to the association handler one-half percent.

(c) In computing shrinkage, producer milk received at a pool supply plant and transferred in bulk from such plant to a pool distributing plant shall be subtracted from the producer milk receipts at the first plant and added to the producer milk receipts at the second plant.

(d) When a handler has receipts of other source milk, shrinkage shall be allocated pro rata to skim milk and butterfat, respectively, in:

(i) Producer milk and other receipts of milk specified in paragraphs (a) and (b) of this section; and

(ii) Other source milk exclusive of that specified in paragraph (a) of this section.

§ 1040.43 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler except as provided in § 1040.44(b), subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to any class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1040.46(a) (1) through (9) and the corresponding steps of § 1040.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1040.46(a)(4), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1040.46(a) (8) or (9) and the corresponding steps of § 1040.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class III milk, if transferred in the form of cream in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant if the handler claims Class III utilization and such nonpool plant is located in Pennsylvania, New Jersey, New York, or New England, otherwise assignment of cream transferred shall be pursuant to paragraph (d) or (e) of this section;

(d) As Class I milk if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1040.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants;

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of an other order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants;

(iv) To the extent that Class I utilization is not so assigned to it, the skim

milk and butterfat so transferred shall be classified as Class II milk to the extent such utilization is available and then to Class III milk; and

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class III to the extent of the Class III utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for only two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class III; and

(6) If the form in which any fluid milk product is transferred to another order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1040.41.

§ 1040.44 Responsibility of handlers.

(a) Except as provided in paragraph (b) of this section, all skim milk and butterfat shall be classified as Class I utilization unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise.

(b) Milk in bulk delivered by a cooperative association as a handler under § 1040.7(c) or from the pool plant of a cooperative association to a handler's pool plant shall be classified according to use or disposition by the latter handler and the value thereof at the class prices shall be included in his net pool obligation pursuant to § 1040.60.

§ 1040.45 Computation of skim milk and butterfat in each class.

For each month the market administrator shall correct for mathematical and other obvious errors in the monthly report submitted by each handler, and compute the total pounds of skim milk and butterfat, respectively, in Class I, Class II, and Class III utilization for such handler. If any of the water contained in the milk from which a product, other than cottage cheese or cottage cheese curd, is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water normally associated with such solids in the form of whole milk. Nonfat milk solids used to fortify fluid milk products in producing or adding to cottage cheese or cottage cheese curd shall be accounted for on the basis of the actual weight of the solids.

§ 1040.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1040.45, the market administrator shall determine for each handler the classification of producer milk and milk received pursuant to § 1040.44(b) as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III pursuant to § 1040.41(c)(7);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class III milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Except for the first month this subparagraph is effective with respect to each handler, subtract from the remaining pounds of skim milk in Class I, the pounds of skim milk in inventory of fluid milk products in packaged form on hand at the beginning of the month;

(4) Subtract in the order specified below, from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than a fluid milk product, provided that any such milk received as cottage cheese or cottage cheese curd shall be subtracted directly from the handler's cottage cheese utilization (Class II);

(ii) Receipts of fluid milk products that are not approved by a duly constituted health authority for fluid consumption in the marketing area or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(5) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II or Class III, but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant:

(*a*) For which the handler requests Class III utilization; or

(*b*) In series beginning with Class III, which are in excess of the pounds of skim milk determined by subtracting from 125 percent of the pounds of skim milk remaining in Class I milk the sum of the pounds of skim milk in producer milk, receipts from a cooperative association pursuant to § 1040.7(c), receipts from pool plants of other handlers, and receipts in bulk from other order plants; and

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class III utilization was requested by the operator of such plant and the handler;

(6) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in inventory of bulk fluid milk products on hand at the beginning of the month (and for the first month this subparagraph is effective with respect to each handler, the pounds of fluid milk products in packaged form on hand at the beginning of the month);

(7) Add to the remaining pounds of skim milk in Class III milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (5)(i) of this paragraph;

(9) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (5)(ii) of this paragraph:

(i) In series beginning with Class III, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated combined Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1040.27(l) or the percentage that combined Class II and Class III utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(10) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants according to the classification assigned pursuant to § 1040.43(a);

(11) If the pounds of skim milk remaining exceed the pounds of skim milk in producer milk and milk received pursuant to § 1040.44(b), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to

paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of such milk in each class.

MINIMUM CLASS PRICES

§ 1040.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the U.S.D.A. for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the U.S.D.A. for the month. The basic formula price shall be rounded to the nearest full cent. For the purpose of computing Class I prices from the effective date hereof through April 1969, the basic formula price shall not be less than $4.33.

§ 1040.51 Class I milk price.

Subject to the provisions of §§ 1040.53 and 1040.54, the minimum price per hundredweight to be paid by each handler, f.o.b. his plant, for milk of 3.5 percent butterfat content received from producers or from a cooperative association during the month which is classified as Class I milk shall be as follows:

(a) To the basic formula price for the preceding month add $1.40 and add an additional 20 cents through April 1969.

§ 1040.52 Class II milk price.

The Class II milk price shall be the Class III milk price, plus 15 cents.

§ 1040.52a Class III milk price.

The minimum price per hundredweight to be paid by each handler, f.o.b. his plant, for milk of 3.5 percent butterfat content received from producers or from a cooperative association during the month which is classified as Class III milk shall be computed by the market administrator as follows:

(a) The amount for the month computed pursuant to § 1040.50, but not more than the sum of the amounts computed pursuant to subparagraphs (1) and (2) of this paragraph (rounded to the nearest cent), plus 10 cents:

(1) From the average Chicago butter price for the month computed pursuant to § 1040.50, subtract 3 cents and multiply by 4.2; and

(2) From the weighted average of carlot prices per pound of spray process, nonfat dry milk for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the U.S.D.A., deduct 5.5 cents, and multiply by 8.2.

§ 1040.53 Handler butterfat differential.

There shall be added to or subtracted from, the price of milk for each class as computed pursuant to §§ 1040.51, 1040.52, and 1040.52a, for each one-tenth of 1 percent that the average butterfat test of the milk in each class is above or below 3.5 percent, as the case may be, an amount equal to the average Chicago butter price for the month as described in § 1040.50 multiplied by 0.113 and the result rounded to the nearest one-tenth of a cent.

§ 1040.54 Location adjustments to handlers.

(a) For producer milk received at a pool plant and classified as Class I milk without movement to another pool plant and for other source milk for which a location adjustment is applicable, the price computed pursuant to § 1040.51 shall be reduced pursuant to subparagraph (1) or (2) of this paragraph on the basis of the applicable rate per hundredweight for the location of such plant.

(1) Zone rates. For a plant located within the following described territory, including the cities located therein, the applicable zone rates shall be as follows:

MICHIGAN COUNTIES

Zone I—no adjustments:

Genesee.	Monroe.
Lenawee.	Oakland.
Macomb.	Wayne.

Bay (except Gibson, Mount Forest, Pinconning, Garfield, and Fraser Townships).

Saginaw (except Jonesfield, Richland, Lakefield, Fremont, Marion, Brant, Chapin, Brady, Chesaning, and Maple Grove Townships).

St. Clair (except Berlin, Riley, Mussey, Emmett, Lynn, Brockway, Greenwood, Grant, and Burtchville Townships).

Washtenaw (except Manchester, Bridgewater, Sharon, Freedom, Sylvan, Lima, Lyndon, and Dexter Townships).

Zone II—3 cents:

Ingham.	Washtenaw (all the townships excluded from Zone I).
Jackson.	
Livingston.	

Zone III—5 cents:

Arenac.	Isabella.
Clinton.	Lapeer.
Eaton.	Midland.
Gladwin.	Sanilac.
Gratiot.	Shiawassee.
Huron.	Tuscola.

Bay (all the townships excluded from Zone I).

Ionia (except Otisco, Orleans, Keene, Easton, Boston, Berlin, Campbell, and Odessa Townships).

Montcalm (except Reynolds, Winfield, Cato, Belvidere, Pierson, Maple Valley, Pine, Douglass, Montcalm, Sidney, Eureka, and Fairplain Townships).

Saginaw (all the townships excluded from Zone I).

St. Clair (all the townships excluded from Zone I).

Zone IV—7 cents:

Barry.	Kalamazoo.
Branch.	Kent.
Calhoun.	Mecosta.
Hillsdale.	St. Joseph.

Allegan (all the townships excluded from Zone V).

Ionia (all the townships excluded from Zone III).

Montcalm (all the townships excluded from Zone III).

Zone V—9 cents:

Berrien.	Newaygo.
Cass.	Oceana.
Clare.	Ogemaw.
Iosco.	Osceola.
Lake.	Ottawa.
Mason.	Roscommon.
Missaukee.	Van Buren.
Muskegon.	

Allegan (except the townships of Dorr, Gunplain, Hopkins, Leighton, Martin, Otsego, Watson, and Wayland).

Zone VI—12 cents:

Alcona.	Manistee.
Crawford.	Oscoda.
Grand Traverse.	Wexford.
Kalkaska.	

Zone VII—15 cents:

Alpena.	Emmet.
Antrim.	Leelanau.
Benzie.	Montmorency.
Charlevoix.	Otsego.
Cheboygan.	Presque Isle.

(2) *Mileage rate.* For any plant at a location outside the territory specified in the preceding paragraph (a)(1), the applicable adjustment rate per hundredweight shall be based on the shortest highway distance between the plant and the nearest point in such territory as determined by the market administrator, and shall be the amount of the zone differential applicable at such point plus one cent for each 10 miles or fraction thereof from such point.

(b) For fluid milk products transferred in bulk from a pool plant to a pool plant described in § 1040.16(a), the operator of the transferee plant shall receive credit at the applicable zone or mileage rate, based on the location of the transferor plant. The total volume on which such credit is computed shall be limited to the amount by which 108 percent of Class I disposition at the transferee plant is in excess of the sum of receipts at such plant (1) from producers, (2) from cooperative associations pursuant to § 1040.7(c), and (3) from other order plants and unregulated supply plants which are assigned in Class I, such assignment of receipts from the transferor plant to be pro rata to receipts of fluid milk products from all transferor pool plants.

§ 1040.55 Use of equivalent prices.

If for any reason a price quotation required by this part for computing class prices or for any other purpose is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

DETERMINATION OF UNIFORM PRICES TO PRODUCERS

§ 1040.60 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of milk in each class as computed pursuant to § 1040.46(c), by the applicable class prices;

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1040.46(a)(11) and the corresponding step of § 1040.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price or Class II price for the current month as the case may be, by the hundredweight of skim milk and butterfat subtracted from such respective class pursuant to § 1040.46(a)(6) and the corresponding step of § 1040.46(b).

(c-1) Add an amount determined by multiplying the difference between the Class I price for the preceding month and Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1040.46(a)(3) and the corresponding step of § 1040.46(b). If the Class I price for the current month is less than the Class I price for the preceding month the result shall be a minus amount;

(d) Add an amount equal to the difference between the Class I and Class III price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1040.46(a)(4) and the corresponding step of § 1040.46(b); and

(e) Add the value at the Class I price, adjusted for location of the nonpool plant(s) from which an equivalent volume was received, of the skim milk and butterfat subtracted from Class I pursuant to § 1040.46(a)(8) and the corresponding step of § 1040.46(b).

§ 1040.61 Computation of the 3.5 percent value of all milk.

For each month the market administrator shall compute the 3.5 percent value of all milk by:

(a) Combining into one total the individual values of milk of all handlers computed pursuant to § 1040.60;

(b) Adding if the weighted average butterfat test of all milk represented in paragraph (a) of this section is less than 3.5 percent, or subtracting if the weighted average butterfat test of such milk is more than 3.5 percent, an amount computed by multiplying the total pounds of butterfat represented by the difference of such average butterfat test from 3.5 percent by the butterfat differential provided in § 1040.82 multiplied by 10;

(c) Adding the aggregate of the values of the applicable location adjustments pursuant to § 1040.81(a)(1); and

(d) Adding not less than one-half of the unobligated balance in the producer-equalization fund.

§ 1040.62 Computation of uniform price.

For each month the market administrator shall compute a uniform price as follows:

(a) Divide the aggregate value computed pursuant to § 1040.61 by the sum of the following:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1040.60(e); and

(b) Subtract not less than 6 nor more than 7 cents from the price computed pursuant to paragraph (a) of this section.

§ 1040.63 Adjusted uniform price.

For the purpose of payments pursuant to § 1040.70(c) the uniform price computed pursuant to § 1040.62 shall be adjusted by deducting therefrom 25 percent of the difference between the uniform price and the excess milk price, rounded to the nearest cent.

§ 1040.64 Excess milk price.

For each month, the excess price shall be the price of Class III milk, determined pursuant to § 1040.52a.

§ 1040.65 Computation of uniform price for base milk.

(a) Multiply the total pounds of excess milk for the month by the excess milk price;

(b) Multiply the total amount of milk to be paid for at the uniform price pursuant to § 1040.70 (d) and (e)(2) by the uniform price for the month;

(c) Multiply the total amount of milk to be paid for at the adjusted uniform price pursuant to § 1040.70(c) by the adjusted uniform price for the month;

(d) Subtract the total values arrived at in paragraphs (a), (b), and (c) of this section and § 1040.84(b)(2) from the total 3.5 percent value of all producer milk arrived at in § 1040.61;

(e) Divide the resultant value by the total hundredweight of base milk; and

(f) Subtract not less than 6 cents nor more than 7 cents. The resultant hundredweight price shall be the uniform price of base milk of 3.5 percent butterfat content.

§ 1040.66 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-equalization fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to § 1040.30 the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1)(i) The obligation that would have been computed pursuant to § 1040.60 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class III milk (or Class II) if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1040.60(e) and a credit in the amount specified in § 1040.84(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his report pursuant to § 1040.30 similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1040.16(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph for an amount of milk equivalent to that received from such supply plant, and (ii) any payment to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct (except that deducted under a similar provision of another order issued pursuant to the act) the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price pursuant to § 1040.62 at the same location or at the Class III price, whichever is higher.

§ 1040.67 Notification.

On or before the 12th day after the end of each month the market administrator shall notify each handler of:

(a) The amounts and values of his milk in each class and the total of such amounts and values;

(b) The base of any producer delivering milk to the handler which was not used in making payments for the previous month;

(c) The amount due such handler from the producer-equalization fund or the amount to be paid by such handler to the producer-equalization fund, as the case may be; and

(d) The totals of the minimum amounts to be paid by such handler pursuant to §§ 1040.80, 1040.84, 1040.86, 1040.87, and 1040.88.

BASE RULES

§ 1040.70 Determination of base.

(a) A producer who delivered milk on at least 122 days during the period August 1 through December 31, inclusive, of any year shall have a base computed by the market administrator to be applicable, subject to § 1040.72, for the 12-month period beginning the following February 1, equal to his daily average milk deliveries from the date on which milk was first delivered in the period to the end of such August 1–December 31 period: *Provided*, That a producer who had a base on December 1 and whose average of daily deliveries for the August 1–December 31 period is less than such base shall have a base computed by subtracting from his previous base any amount by which 90 percent of his previous base exceeds such average of daily deliveries;

(b) A producer with an established base who does not forfeit his base pursuant to § 1040.71(c) but who fails to deliver milk on at least 122 days of the August 1 through December 31 period shall have his base for the 12 months beginning the following February 1 computed by dividing the total pounds shipped during the period by 122;

(c) Except as provided in paragraphs (d) and (e) of this section a producer who has no base shall be paid until February 1 following the August–December period within which he establishes a base pursuant to paragraph (a) of this section at not less than the adjusted uniform price computed pursuant to § 1040.63;

(d) Whenever total receipts of producer milk by all handlers during the month are less than 112.5 percent of the total Class I utilization of all milk by handlers during such month, all producers and cooperative associations shall be paid not less than the uniform price for all milk delivered; and

(e) When a plant first becomes a pool plant any producer delivering to such plant may:

(1) Establish a base on deliveries of milk to such plant for the preceding August–December period certified by submission of delivery receipts or other evidence satisfactory to the market administrator; or

(2) Elect payment at not less than the uniform price computed pursuant to § 1040.62 until the second February 1, after such plant first became a pool plant. Such election must be made on or before the end of the first month for which it is effective.

§ 1040.71 Application of bases.

(a) A base shall apply to deliveries of milk by the producer for whose account milk was delivered during the base period, and upon death may be transferred to a member or members of the deceased producer's immediate family;

(b) Bases may be transferred under the following conditions upon written notice by the holder of the base to the market administrator on or before the last day of the month that such base is to be transferred;

(1) Upon retirement or entry into military service of a producer, the entire base may be transferred to a member or members of his immediate family;

(2) Bases may be held jointly and if such joint holding is terminated the base may be divided among the joint holders as specified in writing to the market administrator; and

(3) Two or more producers with bases may combine those bases upon the formation of a bona fide partnership; and

(c) A producer who does not deliver milk to any handler for 45 consecutive days shall forfeit his base except that the following producers may retain their bases without loss for 12 months:

(1) A producer who suffers the complete loss of his barn as a result of fire or windstorm; or

(2) A producer for whom loss of 50 percent or more of the milk herd from brucellosis or bovine tuberculosis, is shown by evidence issued under State or Federal authority.

§ 1040.72 Relinquishing a base.

A producer notifying the market administrator that he relinquishes his established base shall be paid pursuant to the provisions of § 1040.70(c) beginning with the first day of the month in which such notification is received by the market administrator until the next February 1.

PAYMENTS FOR MILK

§ 1040.80 Time and method of payment to producers.

(a) Except as provided by paragraph (b) of this section, on or before the 15th day of each month, each handler (except a cooperative association) shall pay each producer for milk received from him during the preceding month, not less than an amount of money computed by multiplying the total pounds of such milk by the applicable uniform prices computed pursuant to §§ 1040.62, 1040.63, 1040.64, or 1040.65 adjusted by the location and butterfat differentials pursuant to §§ 1040.81 and 1040.82 less the payment made pursuant to paragraph (d) of this section and any proper deductions authorized by the producer. If by such date such handler has not received full payment for such month pursuant to § 1040.85 he may reduce such payments uniformly per hundredweight for all producers, by an amount not in excess of the per hundredweight reduction in payment from the market administrator; however, the handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator;

(b) Upon receipt of a written request from a cooperative association which the Secretary determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the association, each handler shall pay to the cooperative association on or before the second day prior to the end of the month an amount equal to the payments authorized pursuant to paragraph (d) of this section, and on or before the 13th day of each month, in lieu of payments pursuant to paragraph (a) of this section, an amount equal to the gross sum due for all such milk received from certified members, less amounts owing by each member-producer to the handler for supplies purchased from him on prior written order or as evidenced by a delivery ticket signed by the producer.

(1) Each handler shall submit to the cooperative association written information on or before the sixth working day of each month which shows for each such member-producer:

(i) The total pounds of milk received from him during the preceding month;

(ii) The total pounds of butterfat contained in such milk;

(iii) The number of days on which milk was received; and

(iv) The amounts withheld by the handler in payment for supplies sold.

(2) A copy of each such request, promise to reimburse and certified list of members shall be filed simultaneously with the market administrator by the association and shall be subject to verification at his discretion, through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler shall be made by written notice to the market administrator, and shall be subject to his determination;

(3) The foregoing payment and the submission of information pursuant to subparagraph (1) of this paragraph, shall be made with respect to milk of each producer whom the cooperative association certifies is a member, which is received on and after the first day of the month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the association.

(c) On or before the 13th day after the end of each month, each handler shall pay a cooperative association, which is a handler with respect to milk received by

him from a pool plant operated by such cooperative association, or by bulk tank delivery pursuant to § 1040.7(c), not less than an amount computed by multiplying the uniform price for base milk subject to the location adjustment, if any, applicable at the transferee plant as provided by § 1040.81 and the butterfat differential provided by § 1040.82, by the total hundredweight of milk received by such handler from the cooperative association.

(d) On or before the last day of each month for producer milk received during the first 15 days of the month at not less than the Class III milk price for the preceding month.

§ 1040.81 Location differentials to producers and on nonpool milk.

(a) Subject to the conditions of paragraph (b) of this section, in making payments to producers or cooperative associations pursuant to § 1040.80 each handler:

(1) May deduct for base milk and milk to be paid for at the uniform price or adjusted uniform price the rate per hundredweight applicable pursuant to § 1040.54(a) (1) or (2) for the location of the plant at which the milk was first physically received.

(2) Shall add not less than 4 cents per hundredweight with respect to milk received from producers and cooperative associations pursuant to § 1040.7(c) at a pool plant located in those townships, including the cities located therein, of Oakland County other than Royal Oak and Southfield, all in the State of Michigan.

(3) Shall add not less than 8 cents per hundredweight with respect to milk received from producers and cooperative associations pursuant to § 1040.7(c) at a pool plant located within Wayne County and the townships of Royal Oak and Southfield including the cities located therein, in Oakland County, all in the State of Michigan.

(b) When milk of an individual producer is physically received at more than one location (including any nonpool plant) during the month, the location differential rate shall be the weighted average (rounded to the nearest one-half cent) of the amounts computed for the respective locations, except that if 65 percent or more of such producer's milk is delivered to a plant or plants at which the same rate is applicable, such rate shall be applicable to all deliveries of such producer during the month regardless of point of delivery.

(c) For purposes of computation pursuant to § 1040.84 and § 1040.85, the uniform price shall be adjusted at the rates set forth in § 1040.54 applicable at the location of the nonpool plant from which the other source milk was received.

§ 1040.82 Producer butterfat differential.

In making payments pursuant to § 1040.80, the base price and excess price or the uniform prices shall be increased or decreased for each one-tenth of 1 percent of butterfat content that the milk received from each producer or a cooperative association is above or below 3.5 percent, as the case may be, by the butterfat differential computed under § 1040.53 rounded to the nearest one-half cent.

§ 1040.83 Producer-equalization fund.

The market administrator shall establish and maintain a separate fund, known as the "producer-equalization fund" into which he shall deposit all payments received pursuant to §§ 1040.66 and 1040.84 and out of which he shall make all payments pursuant to § 1040.85.

§ 1040.84 Payments to the producer-equalization fund.

On or before the 13th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section;

(a) The sum of:

(1) The net pool obligation computed pursuant to § 1040.60 for such handler; and

(2) In the case of a cooperative association which is a handler, the value, at the uniform price for base milk, of milk delivered to other handlers pursuant to § 1040.44(b).

(b) The sum of:

(1) The value of such handler's producer milk as specified in § 1040.80, excluding any applicable location differential pursuant to § 1040.81(a)(2); and

(2) The value at the uniform price(s) applicable at the location of the plant(s) from which received (not to be less than the value at the Class III price) with respect to other source milk for which a value is computed pursuant to § 1040.60(e).

§ 1040.85 Payments from the producer-equalization fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1040.84(b) exceeds the amount computed pursuant to § 1040.84(a). The market administrator shall offset any payment due any handler against payments due from such handler. If the balance in the producer-equalization fund is insufficient to make all payments to all handlers pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds become available.

§ 1040.86 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 13th day after the end of the month 2 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including milk of such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1040.46(a) (4) and (8) and the corresponding steps of § 1040.46(b); and

(c) Class I milk disposed of in the marketing area from partially regulated distributing plants that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

§ 1040.87 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments pursuant to § 1040.80(a) for milk received from each producer (including milk of such handler's own production) at a plant not operated by a cooperative association of which such producer is a member, shall deduct 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe, and, on or before the 13th day after the end of each month, shall pay such deductions to the market administrator. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received from producers and to provide producers with market information, such services to be performed by the market administrator or by an agent engaged by and responsible to him;

(b) In the case of producers whose milk is received at a plant not operated by a cooperative association of which such producers are members, for which payment is not made pursuant to § 1040.80 (b) or (c), and for whom a cooperative association is actually performing the services described in paragraph (a) of this section, as determined by the Secretary, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from payments required pursuant to § 1040.80 as may be authorized by such producers, and pay such deductions or or before the 13th day after the end of the month to the cooperative association rendering such services of which such producers are members.

§ 1040.88 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses adjustments to be made, for any reason, which result in moneys due:

(a) To the market administrator from such handler;

(b) To such handler from the market administrator; or

(c) To any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any such amount due, and payment thereof shall be made on or before the next date for making payment set forth in the provisions under which such error occurred, following the fifth day after such notice.

§ 1040.89 Overdue accounts.

Any unpaid obligation of a handler or of the market administrator pursuant to §§ 1040.84, 1040.85, 1040.86, 1040.87, and 1040.88 shall be increased one-half of 1 percent on the first day of the month next following the due date of such obli-

gation and on the first day of each month thereafter until such obligation is paid.

APPLICATION OF PROVISIONS

§ 1040.90 Handler exemption.

A handler who operates a plant, other than a plant described in § 1040.16(b), located outside the marketing area from which fluid milk products are disposed of within the marketing area on a route(s) but from which the disposition of fluid milk products on all routes operated wholly or partly within the marketing area averages less than 600 pounds per day for the month, and from which no milk is transferred to other handlers, shall be exempt for such month from all provisions of this part except §§ 1040.31, 1040.32, and 1040.33.

§ 1040.91 Handlers subject to other Federal orders.

A handler who operates a plant at which during the month milk is fully subject to the classification, pricing, and payment provisions of another marketing agreement or order issued pursuant to the act and the disposition of fluid milk products in the other Federal marketing area exceeds that in the Southern Michigan marketing area shall be exempt for such month from all provisions of this part except §§ 1040.31, 1040.32, and 1040.33.

§ 1040.92 Producer-handler exemption.

A producer-handler shall be exempt from all provisions of this part except §§ 1040.31, 1040.32, and 1040.33.

§ 1040.93 Special reporting dates.

When a holiday prevents normal business activities on any day except Sunday during the first 15 days of the month, those of the dates specified in §§ 1040.27 (k)(2), 1040.30, 1040.31(b), 1040.66, 1040.80, 1040.84, 1040.85, 1040.86, and 1040.87 which follows such holiday shall be postponed by the number of days lost as a result of such holiday.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 1040.100 Termination of obligations.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 years after the last day of the month during which the market administrator receives the handler's report of utilization of the milk involved in such obligation, unless within such 2-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to a cooperative association, the name of such producers or association, or if the obligation is payable to the market administrator, the account for which it is to be paid;

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books or records required by this order to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which such books and records pertaining to such obligation are made available to the market administrator or his representatives;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate 2 years after the end of the month during which the milk involved in the claim was received if an underpayment is claimed, or 2 years after the end of the month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

§ 1040.101 Effective time.

The provisions of this part, or of any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 1040.102 Suspension or termination.

The Secretary shall, whenever he finds that this part, or any provision thereof, obstructs or does not tend to effectuate the declared policy of the Act, terminate or suspend the operation of this part or any such provision thereof.

§ 1040.103 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 1040.104 Liquidation.

Under the suspension or termination of the provisions of this part, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers, in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1040.110 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 1040.111 Separability of provisions.

If any provision of this part, or its application to any person or circumstances, is held invalid the application of such provisions, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Effective date: May 1, 1968.

Signed at Washington, D.C., on April 25, 1968.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 68-5167; Filed, Apr. 30, 1968; 8:45 a.m.]

[Milk Order No. 65]

PART 1065—MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

PART 1066—MILK IN SIOUX CITY, IOWA, MARKETING AREA

Order Amending and Consolidating Orders

This order amends and consolidates under Part 1065 the order provisions of parts 1066 (Sioux City, Iowa, milk order) and 1065 (Nebraska-Western Iowa milk order). The marketing areas defined under these two orders are combined and expanded into an area redefined as the Nebraska-Western Iowa marketing area. Because of the merger of the orders into part 1065, part 1066 is no longer appropriate, and therefore, is superseded and reserved for future reassignment to another program.

Order Regulating the Handling of Milk in the Nebraska-Western Iowa Marketing Area

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AUTHORITY: The provisions of this Part 1065 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 1065.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Nebraska-Western Iowa marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act:

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 3 cents per hundredweight or such amount not to exceed 3 cents per hundredweight as the Secretary may prescribe, with respect to: (i) producer milk (including that classified pursuant to § 1065.44(e)) and such handler's own production, (ii) other source milk allocated to Class I pursuant to § 1065.46(a)(3) and (7) and the corresponding steps of § 1065.46(b), and (iii) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than May 1, 1968. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator, Regulatory Programs, was issued on February 23, 1968, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued April 15, 1968. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective May 1, 1968, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER (5 U.S.C. 553(d)(1966)).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the orders regulating the handling of milk in the Nebraska-Western Iowa and Sioux City, Iowa, marketing areas shall be amended and consolidated into one order and the handling of milk in the consolidated marketing area, redefined as the Nebraska-Western Iowa marketing area, shall be in conformity to and in compliance with the terms and conditions of Part 1065, as amended, and as hereby further amended. Part 1066 is hereby superseded and Part 1065 is hereby amended as follows:

DEFINITIONS

§ 1065.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and as re-enacted

and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 1065.2 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture of the United States.

§ 1065.3 Department.

"Department" means the United States Department of Agriculture or any other Federal agency authorized to perform the price reporting functions specified in this part.

§ 1065.4 Person.

"Person" means any individual, partnership, corporation, association, or any other business unit.

§ 1065.5 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application of the association:

(a) Is qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) Has full authority in the sale of milk of its members and is engaged in making collective sales of, or marketing, milk or its products for its members;

(c) Has its entire activities under the control of its members.

§ 1065.6 Nebraska-Western Iowa marketing area.

The "Nebraska-Western Iowa marketing area" (hereinafter referred to as the "marketing area") means all the territory within the boundaries of the counties and townships listed below, including such territory as is now occupied and as may be occupied in the future by Government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments. Where such establishment is partly within and partly without the designated boundaries, the marketing area shall include the entire area encompassed by such establishment.

(a) *Zone 1.*

IOWA COUNTIES

Fremont.
Harrison.
Mills.
Monona.
Pottawattamie (only the townships of Boomer, Crescent, Garner, Hardin, Hazel Dell, Kane, Keg Creek, Lake, Lewis, Minden, Neola, Norwalk, Rockford, Silver Creek, Washington, and York.)
Woodbury.

NEBRASKA COUNTIES

Antelope.
Boone.
Burt.
Butler.
Cass.
Cedar.
Clay.
Colfax.
Cuming.
Dakota.
Dixon.
Dodge.
Douglas.
Fillmore.
Gage.
Hamilton.
Jefferson.
Johnson.
Knox.
Lancaster.
Madison.
Merrick.
Nance.
Nemaha.
Nuckolls.
Otoe.
Pierce.
Platte.
Polk.
Saline.
Sarpy.
Saunders.
Seward.
Stanton.
Thayer.
Thurston.
Washington.
Wayne.
York.

SOUTH DAKOTA

That portion of Union County comprising Jefferson Township, North Sioux City, and the unorganized territory adjacent thereto, as defined and mapped in the United States 1960 Census of Population.

(b) *Zone 2.*

IOWA COUNTIES

Cass.
Cherokee.
Crawford.
Ida.
Montgomery.
O'Brien
Page.
Plymouth.
Sac.
Shelby.
Sioux.
Pottawattamie (that portion not otherwise included in Zone 1).

(c) *Zone 3.*

NEBRASKA COUNTIES

Adams.
Banner.
Box Butte.
Buffalo.
Cheyenne.
Custer.
Dawes.
Dawson.
Deuel.
Franklin.
Frontier.
Furnas.
Garden.
Gosper.
Greeley.
Hall.
Harlan.
Howard.
Kearney.
Keith.
Kimball.
Lincoln.
Morrill.
Phelps.
Red Willow.
Scotts Bluff.
Sheridan.
Sherman.
Sioux.
Valley.
Webster.

§ 1065.7 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority and whose milk is received at a pool plant or by a cooperative association in its capacity as a handler, or is diverted as producer milk pursuant to § 1065.14.

§ 1065.8 Handler.

"Handler" means:

(a) Any person who operates a pool plant. In case a corporation with recognized divisions which are operated as separate business units operates two or more pool plants, each such division shall be the handler with respect to the pool plant(s) it operates;

(b) Any person who operates a partially regulated distributing plant;

(c) Any cooperative association with respect to milk of its member producers which is diverted from a pool plant to a nonpool plant for the account of such association;

(d) A cooperative association with respect to milk of its member producers which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association. The milk shall be deemed to have been received from producers by the cooperative association at the location of the plant to which it is delivered;

(e) A producer-handler, or any person who operates an other order plant described in § 1065.61.

§ 1065.9 Producer-handler.

"Producer-handler" means any person who is both a dairy farmer and the operator of a distributing plant, and who meets the qualifications specified in paragraphs (a) and (b) of this section;

(a) Receipts of fluid milk products at his plant are solely milk of his own production and from pool plants of other handlers; and

(b) The maintenance, care and management of the dairy animals and other resources necessary to produce the milk and the processing, packaging and distribution of the milk are the personal enterprise and the personal risk of such person.

§ 1065.10 Distributing plant.

"Distributing plant" means a plant which is approved by an appropriate health authority for the processing or packaging of Grade A milk and from which any fluid milk product is disposed of during the month on routes in the marketing area.

§ 1065.11 Supply plant.

"Supply plant" means a plant from which milk, skim milk, or cream, acceptable to an appropriate health authority for distribution in the marketing area under a Grade A label, is shipped during the month to a pool plant qualified pursuant to § 1065.12.

§ 1065.12 Pool plant.

"Pool plant" means a plant, other than that of a producer-handler or a handler partially exempt pursuant to § 1065.61, described in paragraph (a), (b), or (c) of this section. If a portion of a plant is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section.

(a) A distributing plant from which a volume of Class I milk equal to not less than 35 percent of the Grade A milk received at such plant from dairy farmers, supply plants (exclusive of plants qualifying as pool plants pursuant to this paragraph), and cooperative associations pursuant to § 1065.8(d), is disposed of during the month on routes and not less than 15 percent of such receipts are so disposed of in the marketing area; and

(b) A supply plant from which the volume of fluid milk products shipped during the month to pool plants qualified pursuant to paragraph (a) of this section is not less than 50 percent of the

Grade A milk received at such plant from dairy farmers and cooperative associations pursuant to § 1065.8(d) during such month. A supply plant that qualifies as a pool plant in each of the immediately preceding months of August through December shall be a pool plant for the succeeding months of January through July, unless the plant operator requests the market administrator, in writing, that such plant not be a pool plant, such nonpool plant status to be effective the first month following such notice and thereafter until the plant again qualifies as a pool plant on the basis of shipments.

(c) A supply plant operated by a cooperative association if, during the month, 51 percent or more of the producer milk of members of the association is received at a pool distributing plant(s) of another handler(s), or is transferred to such plant(s) from the association's supply plant.

§ 1065.13 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

§ 1065.14 Producer milk.

"Producer milk" of each handler means all skim milk and butterfat contained in milk from producers which is:

(a) Received from producers at a pool plant;

(b) Received from producers by a cooperative association which is a handler pursuant to § 1065.8 (c) or (d);

(c) Moved from the farm to a nonpool plant (other than a plant of a producer-handler) pursuant to subparagraph (1) or (2) of this paragraph, subject to the conditions set forth in subparagraphs (3) and (4) of this paragraph:

(1) For any month, a cooperative association handler pursuant to § 1065.8(c) of this part may divert for its account the milk of any member-producer whose milk has been received at a pool plant(s) for at least 3 days during the month. The aggregate quantity of producer milk so diverted for the month, however, shall not exceed 15 percent of the cooperative handler's total member-producer milk receipts at all pool plants during the month;

(2) A handler in his capacity as the operator of a pool plant may divert for his account the milk of any producer, other than a member of a cooperative association, whose milk has been received at his pool plant(s) for at least 3 days during the month. The aggregate quantity of producer milk so diverted for the month, however, shall not exceed 15 percent of the milk of all such producers received at his pool plant(s) exclusive of that milk received from producer-members of a cooperative association;

(3) In the event milk receipts from dairy farmers are diverted in excess of the applicable percentages pursuant to subparagraphs (1) and (2) of this paragraph, the diverting handler shall designate the dairy farmers whose milk was over-diverted. If the handler fails to make such designation, only the milk of dairy farmer(s) which is physically received at the pool plant of such handler during the month shall be producer milk for such month; and

(4) For the purposes of location adjustments pursuant to §§ 1065.53 and 1065.73, milk so diverted shall be priced at the location of the plant to which diverted.

§ 1065.15 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts during the month in the form of fluid milk products, except (1) fluid milk products received from pool plants, (2) producer milk, or (3) inventory at the beginning of the month; and

(b) Products (except cottage cheese from pool plants) other than fluid milk products from any source (including those produced at the plant) which are reprocessed or converted into or combined with another product in the plant during the month, and any disappearance of products, other than fluid milk products, which are in a form in which they may be converted into fluid milk products and which are not otherwise accounted for pursuant to § 1065.33.

§ 1065.16 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, flavored milk, yogurt, milk drinks (plain or flavored), concentrated milk (frozen or fresh), cream, cultured or sour cream or any mixture in fluid form of milk or skim milk and cream (except frozen cream, aerated cream products, ice cream mix, frozen dessert mixes, eggnog, evaporated or condensed milk, sterilized products packaged in hermetically sealed metal or glass containers, and cultured sour mixtures of cream and milk or skim milk to which cheese or any other food substance other than a milk product has been added and not labeled as Grade A).

§ 1065.17 Route.

"Route" means any delivery (including delivery by a vendor or through a distribution point, or sale from a plant store) of a fluid milk product to retail or wholesale outlets other than a delivery (a) in bulk to a milk plant, or (b) to a food processing plant pursuant to § 1065.41(c)(4).

§ 1065.18 Butter price.

"Butter price" means the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at Chicago as reported by the Department during the month.

MARKET ADMINISTRATOR

§ 1065.20 Designation.

The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 1065.21 Powers.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 1065.22 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to the following:

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with satisfactory surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 1065.86 the cost of his bond and the bonds of his employees, his own compensation, and all other expenses, except those incurred under § 1065.85, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary, surrender the same to such person as the Secretary may designate;

(f) Publicly announce, at his discretion, unless otherwise directed by the

Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, after the date upon which he is required to perform such acts, has not made reports or payments required by this part;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(h) Prepare and disseminate publicly such statistics and information as he deems advisable and as do not reveal confidential information;

(i) Verify all reports and payments by each handler by audit, if necessary, of such handler's records and the records and facilities of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends;

(j) On or before the 12th day after the end of the month, report to each cooperative association, which so requests, the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report, the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class;

(k) Publicly announce and notify each handler in writing on or before: (1) The 10th day of each month, the Class I milk price pursuant to § 1065.51(a) and the Class I butterfat differential pursuant to § 1065.52(a) for the current month, and the Class II and Class III prices pursuant to § 1065.51 (b) and (c) and the Class II and Class III butterfat differential pursuant to § 1065.52(b) for the preceding month; and (2) the 12th day after the end of each month, the uniform price pursuant to § 1065.71, and the butterfat differential to be paid pursuant to § 1065.72;

(l) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1065.46(a)(8) and the corresponding step of § 1065.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1065.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

REPORTS, RECORDS AND FACILITIES

§ 1065.30 Reports of receipts and utilization.

On or before the 7th day, excluding holidays, after the end of each month each handler shall report to the market administrator for such month in the detail and on forms prescribed by the market administrator as follows:

(a) Each handler operating pool plants shall report the quantities of skim milk or butterfat in:

(1) Receipts at each such plant in:

(i) Producer milk;

(ii) Milk received from cooperative associations pursuant to § 1065.8(d);

(iii) Fluid milk products received from other pool plants; and

(iv) Other source milk;

(2) Opening inventories of fluid milk products;

(3) The utilization in each class of the quantities required to be reported; and

(4) Such other information with respect to receipts and utilization as the market administrator may request;

(b) Each handler specified in § 1065.8 (b) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts in Grade A milk shall be reported in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes (other than to pool plants) in the marketing area as Class I milk:

(c) Each cooperative association shall report with respect to milk for which it is a handler pursuant to § 1065.8 (c) or (d) as follows:

(1) Receipts of skim milk and butterfat in producer milk;

(2) Utilization of milk for which it is the handler pursuant to § 1065.8(c);

(3) The quantities delivered to each pool plant of another handler pursuant to § 1065.8(d); and

(4) Such other information as the market administrator may require.

§ 1065.31 Payroll reports.

On or before the 20th day of each month, each handler except one exempt pursuant to § 1065.61 or one making payments pursuant to § 1065.62(b), shall submit to the market administrator his producer payroll (or in the case of a handler making payments pursuant to § 1065.62(a), his payroll for dairy farmers delivering Grade A milk) which shall show for each producer:

(a) The name and address of the producer, dairy farmer or cooperative association;

(b) The total pounds of milk received, the average butterfat content thereof, and the number of days on which milk was received from such producer;

(c) The location at which received and, for each producer whose milk was diverted to a nonpool plant, the total pounds of milk diverted and the location of the nonpool plant; and

(d) The price, amount and date of payment with the nature and amount of any deductions.

§ 1065.32 Other reports.

Each producer-handler and each handler exempt from regulation pursuant to §§ 1065.61 and 1065.62(b) shall make reports to the market administrator at such time and in such manner as the market administrator may request.

§ 1065.33 Records and facilities.

Each handler shall maintain and make available to the market administrator, or his representative, during the usual hours of business, such accounts and records of his operations, and such facilities as, in the opinion of the market administrator, are necessary to verify or to establish the correct data with respect to:

(a) The receipts and utilization in whatever form of all skim milk and butterfat required to be reported pursuant to § 1065.30;

(b) The weights and tests for butterfat and other contents of all milk and milk products received or utilized; and

(c) Payments to producers or cooperative associations.

§ 1065.34 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided*, That if, within such three-year period the market administrator notifies the handler in writing that the retention of such records or of specific books and records is necessary in connection with the proceedings under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1065.40 Skim milk and butterfat to be classified.

The skim milk and butterfat which are required to be reported pursuant to § 1065.30 shall be classified each month by the market administrator, pursuant to the provisions of §§ 1065.41 through 1065.46. If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all

of the water originally associated with such solids.

§ 1065.41 Classes of utilization.

Subject to the conditions set forth in §§ 1065.43 through 1065.46 the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product (including those reconstituted) except:

(i) Any product fortified with added solids shall be Class I in an amount equal only to the weight of an equal volume of a like unmodified product of the same butterfat content; and

(ii) As classified pursuant to paragraph (c) (2), (3) and (4) of this section; or

(2) Not specifically accounted for as Class II or as Class III.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat used to produce cottage cheese except as classified pursuant to paragraph (c) (2) and (3) of this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product or a Class II product;

(2) In fluid milk products or cottage cheese disposed of in bulk form for livestock feed;

(3) In fluid milk products or cottage cheese dumped after prior notification to and opportunity for verification by the market administrator;

(4) Disposed of in fluid milk products in bulk form to a commercial food processing establishment for use in food products prepared for consumption off the premises;

(5) Used to produce frozen cream;

(6) Contained in inventory of fluid milk products on hand at the end of the month;

(7) The weight of skim milk in fluid milk products which is excepted from Class I milk pursuant to paragraph (a) (1) (i) of this section;

(8) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1065.42(b) (1), but not to exceed the following:

(i) Two percent of milk received directly from producers; plus

(ii) One and one-half percent of milk received in bulk tank lots from pool plants of other handler; plus

(iii) One and one-half percent of milk received from a cooperative association which is the handler for such milk pursuant to § 1065.8(d), except that if the handler operating the pool plant files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage shall be two percent; plus

(iv) One and one-half percent of receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II or Class III utilization was requested by the operator of such plant and the handler; plus

(v) One and one-half percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II or Class III utilization was requested by the handler; less

(vi) One and one-half percent of milk disposed of in bulk tank lots to plants of other handlers (except that in the case of a cooperative association which is a handler pursuant to § 1065.8(d) when the exception specified in subdivision (iii) of this subparagraph applies, the applicable percentage shall be two percent) and to nonpool plants; and

(9) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1065.42(b) (2).

§ 1065.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts at each of his pool plants as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler; and

(b) Prorate the resulting amount between: (1) Skim milk and butterfat in amounts respectively equal to 50 times the maximum amount that may be computed pursuant to § 1065.41(c) (8); and (2) skim milk and butterfat in other source milk received in the form of fluid milk products, exclusive of that specified in § 1065.41(c) (8).

§ 1065.43 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be Class I milk unless the handler who received such skim milk or butterfat from producers or cooperative associations can establish to the satisfaction of the market administrator that such skim milk or butterfat should be classified otherwise; and

(b) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 1065.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject to the following conditions:

(1) The skim milk or butterfat so assigned to any class shall be limited to the amount thereof remaining in such class in the plant(s) of the transferee handler after computations pursuant to § 1065.46(a) (8) and the corresponding step of § 1065.46(b);

(2) If the transferor handler received during the month other source milk to be allocated pursuant to § 1065.46(a) (3) and the corresponding step of § 1065.46 (b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I or Class II utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1065.46(a) (7) or (8) and the corresponding steps of § 1065.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk or Class II milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 200 miles by the shortest highway distance as determined by the market administrator, from the nearest of the City Halls of Omaha, North Platte, or Scottsbluff, Nebraska, or Sioux City, Iowa, and more than 50 miles from the pool plant from which transferred or diverted, except that cream so transferred may be classified as Class III if notice is given to the market administrator at least 24 hours prior to shipment, each container is labeled by the transferor as "ungraded cream for manufacturing only", and such shipment is so invoiced;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 200 miles, by the shortest highway distance as determined by the market administrator, from the nearest of the City Halls of Omaha, North Platte, or Scottsbluff, Nebraska or Sioux City, Iowa, or within 50 miles of the pool plant from which transferred or diverted, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1065.30 for the month within which such transaction occurred:

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular

sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class III milk;

(e) Skim milk and butterfat transferred to the pool plant of another handler by a cooperative association which is the handler of such milk pursuant to § 1065.8(d) shall be classified pro rata to the respective amounts thereof remaining in each class for such month in the pool plant of the receiving handler after the computation pursuant to § 1065.46(a)(9) and the corresponding step of § 1065.46(b); and

(f) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph;

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class III to the extent of the Class III utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For the purposes of this paragraph if the transferee order provides for only two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to Class II under the other order shall be classified as Class III; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1065.41.

§ 1065.45 Computation of skim milk and butterfat in each class.

For each month the market administrator shall correct for mathematical and other obvious errors the reports of receipts and utilization submitted pursuant to § 1065.30 by each handler and shall compute the total pounds of skim milk and butterfat, respectively, in each class at all pool plants of such handler. Allocation pursuant to § 1065.46 and computation of obligations pursuant to § 1065.70 shall be based upon the combined utilization so computed.

§ 1065.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1065.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III pursuant to § 1065.41(c)(8);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class III milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, in sequence beginning with Class III from the pounds of skim milk remaining in Classes II and III, but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant:

(a) For which the handler requests Class II or Class III utilization; or

(b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool handlers, and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such a plant, if Class II or Class III utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class III milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (4)(ii) of this paragraph:

(i) In series beginning with Class III, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1065.22(1) or the percentage that Class II and Class III utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1065.44(a);

(10) Subtract pro rata from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from a cooperative association in its capacity as a handler pursuant to § 1065.8(d); and

(11) If the pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

MINIMUM PRICES

§ 1065.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent. For the purpose of computing Class I prices from the effective date hereof through April 1969, the basic formula price shall not be less than $4.33.

§ 1065.51 Class prices.

Subject to the provisions of §§ 1065.52 and 1065.53 the class prices per hundredweight shall be as follows:

(a) *Class I milk.* The basic formula price for the preceding month plus $1.40 for pool plants located in Zone 1, plus $1.30 in Zone 2 and plus $1.55 in Zone 3, and, from the effective date hereof through April 1969, plus an additional 20 cents for each zone.

(b) *Class II milk.* The basic formula price for the month plus 15 cents.

(c) *Class III milk.* The basic formula price for the month.

§ 1065.52 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices pursuant to § 1065.51 shall be increased or decreased, respectively, for each one-tenth of one percent of butterfat by the appropriate rate, rounded in each case to the nearest one-tenth cent, determined as follows:

(a) *Class I milk.* Multiply the butter price for the preceding month by 0.125; and

(b) *Class II and Class III milk.* Multiply the butter price for the current month by 0.115.

§ 1065.53 Location adjustment to handlers.

(a) For producer milk received at a pool plant (or diverted to a nonpool plant) located outside the marketing area and disposed of as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, and for other source milk for which a location adjustment is applicable, the Class I price shall be that effective pursuant to § 1065.51(a) at the nearest of the pricing zones as set forth in § 1065.6, subject to a reduction of 1.5 cents for each 10 road miles or fraction thereof that such plant is located more than 100 miles from the nearest of the City Halls in Chadron, Grand Island, Lincoln, Norfolk, North Platte, Omaha, and Scottsbluff, all in the State of Nebraska, and Sioux City, Iowa.

(b) For the purpose of calculating such adjustments:

(1) All distances shall be by shortest hard-surfaced highways and/or all-weather roads, as determined by the market administrator; and

(2) Transfers between pool plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and cooperative associations pursuant to § 1065.8(d), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least adjustment would apply.

§ 1065.54 Use of equivalent prices.

If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

APPLICATION OF PROVISIONS

§ 1065.60 Producer-handler.

Sections 1065.40 through 1065.46 1065.50 through 1065.53, 1065.70 through 1065.73, and 1065.80 through 1065.87 shall not apply to a producer-handler.

§ 1065.61 Plants subject to other Federal orders.

Except for §§ 1065.32 through 1065.34 the provisions of this part shall not apply to a handler with respect to the operation of plants described as follows:

(a) A plant qualified pursuant to § 1065.12(a) from which a lesser volume of fluid milk products is disposed of in the Nebraska-Western Iowa marketing area than in the marketing area of another marketing agreement or order issued pursuant to the Act and which is fully subject to the classification and pricing provisions of such other agreement or order; and

(b) Any plant qualified pursuant to § 1065.12(b) for any portion of the period of January through July, inclusive, that producer milk at such plant is subject to the classification and pricing provisions of another order issued pursuant to the Act.

§ 1065.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1065.30(b) and 1065.31 the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1)(i) The obligation that would have been computed pursuant to § 1065.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk or Class III milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1065.70(e) and a credit in the amount specified in § 1065.82(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified in subdivision (ii) of this subparagraph;

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1065.30(b) and 1065.31 similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1065.12(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant;

(2) From this obligation there will be deducted the sum of:

(i) The gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph; and

(ii) Any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes (other than to pool plants) in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price ap-

plicable at such location (not to be less than the Class III price).

DETERMINATION OF PRICES TO PRODUCERS

§ 1065.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1065.46(c), by the applicable class prices (adjusted pursuant to §§ 1065.52 and 1065.53).

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1065.46(a)(11) and the corresponding step of § 1065.46(b) by the applicable class prices;

(c) Add the following:

(1) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1065.46(a)(5) and the corresponding step of § 1065.46(b); and

(2) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class II price for the current month by the lesser of:

(i) The pounds of skim milk and butterfat subtracted from Class II pursuant to § 1065.46(a)(5) and the corresponding step of § 1065.46(b) for the current month; or

(ii) The pounds of skim milk and butterfat remaining in Class III milk after the calculations pursuant to § 1065.46(a)(8) and the corresponding step of § 1065.46(b) for the preceding month, less the pounds used in computation pursuant to subparagraph (1) of this paragraph;

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class III price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1065.46(a)(3) and the corresponding step of § 1065.46(b); and

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1065.46(a)(7) and the corresponding step of § 1065.46(b).

§ 1065.71 Computation of uniform prices.

For each month the market administrator shall compute the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1065.70 for all handlers who filed the reports prescribed by § 1065.30 for the month and who made the payments pursuant to §§ 1065.80 and 1065.82 for the preceding month;

(b) Subtract an amount equal to the total value of the plus location differentials computed pursuant to § 1065.73(a);

(c) Add an amount equal to the total value of the minus location differentials computed pursuant to § 1065.73 (a) and (b);

(d) Subtract, if the average butterfat content of the milk specified in paragraph (f) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1065.72 and multiplying the result by the total hundredweight of such milk;

(e) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(f) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk;

(2) The total hundredweight for which a value is computed pursuant to § 1065.70(e);

(g) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price," and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(h) For the months specified in paragraphs (i) and (j) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (e) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (f)(2) of this section by the weighted average price;

(i) Subtract during each of the months of April, May and June, an amount equal to 8 percent of the remainder;

(j) Add during each of the months of September, October and November, one-third of the total amount subtracted pursuant to paragraph (i) of this section;

(k) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(l) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1065.72 Butterfat differential to producers.

The uniform price for producer milk shall be increased or decreased for each one-tenth of one percent that the butterfat content of such milk is above or below 3.5 percent, respectively, by a butterfat differential equal to the average of the butterfat differentials determined pursuant to paragraphs (a) and (b) of § 1065.52, weighted by the pounds of butterfat in producer milk in each class, the result being rounded to the nearest tenth of a cent.

§ 1065.73 Location differentials to producers and on nonpool milk.

(a) The uniform price computed pursuant to § 1065.71 shall be decreased 10 cents per hundredweight for producer milk received at a pool plant located in Zone 2, and shall be increased 15 cents per hundredweight at pool plants located in Zone 3.

(b) For producer milk received at a pool plant or diverted to a nonpool plant located outside the marketing area the uniform price shall be that effective at the nearest of the pricing zones as set forth in § 1065.6, subject to a reduction at the rates set forth in § 1065.53.

(c) For purposes of computations pursuant to §§ 1065.82 and 1065.83 the weighted average price shall be adjusted at the rates set forth in § 1065.53 applicable at the location of the nonpool plant from which the milk was received.

§ 1065.74 Notification of handlers.

On or before the 12th day of each month the market administrator shall notify each handler of:

(a) The amount and value of his milk in each class computed pursuant to §§ 1065.46 and 1065.70;

(b) The uniform price computed pursuant to § 1065.71;

(c) The amount, if any, due such handler from the producer-settlement fund; and

(d) The total amounts to be paid by such handler pursuant to §§ 1065.82, 1065.85 and 1065.86.

PAYMENTS

§ 1065.80 Time and method of payment.

Each handler shall make payment as follows:

(a) On or before the 15th day after the end of each month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) or (d) of this section, at not less than the applicable uniform price pursuant to §§ 1065.71, 1065.72, and 1065.73 and less the following amounts:

(1) The payments made pursuant to paragraph (b) of this section;

(2) Marketing service deductions pursuant to § 1065.85; and

(3) Any proper deductions authorized by the producer: *Provided*, That, if by such date such handler has not received full payment for such month pursuant to § 1065.83, he may reduce his total payment to all producers uniformly by not more than the amount of reduction in payment from the market administrator; the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipt of the balance from the market administrator;

(b) On or before the 27th day of each month to each producer:

(1) For whom payment is not received from the handler by a cooperative association pursuant to paragraph (c) or (d) of this section; and

(2) Who had not discontinued shipping milk to such handler, an advance payment with respect to milk received

from such producer during the first 15 days of the month an amount per hundredweight not to be less than the uniform price for the preceding month;

(c) To a cooperative association which has filed a written request for such payment with such handler and with respect to producers for whose milk the market administrator determines such cooperative association is authorized to collect payment as follows:

(1) On or before the 26th day of the month, an amount not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (b) of this section, less any deductions authorized in writing by such cooperative association;

(2) On or before the 14th day after the end of each month an amount not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a) of this section, less proper deductions authorized in writing by such cooperative association;

(d) To a cooperative association with respect to receipts of milk for which such cooperative association is the handler pursuant to § 1065.8 (c) or (d) as follows:

(1) On or before the 26th day of the month, for milk received during the first 15 days of the month an amount per hundredweight equal to not less than the weighted average price for the preceding month; and

(2) On or before the 14th day after the end of each month not less than the value of such milk at the applicable class prices, less payment made pursuant to subparagraph (1) of this paragraph;

(e) In making payments to producers pursuant to paragraphs (a) and (c) of this section, each handler shall furnish each producer or cooperative association with a supporting statement, in such form that it may be retained by the producer, which shall show:

(1) The month and the identity of the handler and of the producer;

(2) The pounds per shipment, the total pounds, and the average butterfat test of milk delivered by the producer;

(3) The minimum rate or rates at which payment to the producer is required under the provisions of §§ 1065.71, 1065.72 and 1065.73;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction claimed under paragraph (b) of this section and § 1065.85 together with a description of the respective deductions; and

(6) The net amount of payment to the producer; and

(f) Nothing in this section shall abrogate the right of a cooperative association to make payments to its member producers in accordance with the payment plan of such cooperative association.

§ 1065.81 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1065.62 (a) and (b), 1065.82 and 1065.84 and out of which he shall make all payments to handlers pursuant to §§ 1065.83 and 1065.84.

§ 1065.82 Payments to the producer-settlement fund.

On or before the 13th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1065.70 for such handler;

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1065.80; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class III price) with respect to other source milk for which a value is computed pursuant to § 1065.70(e).

§ 1065.83 Payments out of the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1065.82(b) exceeds the amount computed pursuant to § 1065.82(a). The market administrator shall offset any payment due any handler against payments due from such handler.

§ 1065.84 Adjustment of accounts.

Adjustments of accounts shall be made as follows:

(a) Whenever verification by the market administrator of reports or payments of any handler discloses errors made in payments to or from the producer-settlement fund pursuant to §§ 1065.82 and 1065.83, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within five days, make payment to the market administrator of the account so billed. Whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall, within five days, make such payment to such handler; and

(b) Whenever verification by the market administrator of the payments by a handler to any producer or cooperative association, discloses payments of less than is required by § 1065.80, the handler shall make up such payment to the producer or cooperative association not later than the time of making payments next following such disclosure.

§ 1065.85 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1065.80 shall deduct six cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to producer milk received by such handler (except such handler's own farm production) during the month and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such service shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him; and

(b) In the case of producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

§ 1065.86 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 14th day after the end of the month three cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including that classified pursuant to § 1065.44(e)) and such handler's own production, (b) other source milk allocated to Class I pursuant to § 1065.46(a) (3) and (7) and the corresponding steps of § 1065.46(b), and (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

§ 1065.87 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on milk involved in such obligation unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service if such notice shall be complete upon mailing to the handler's last known

address, and it shall contain, but need not be limited to the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists was received or handled; and

(3) If the obligation is payable to one or more producer(s) or association of producers, the names of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid;

(b) If a handler fails or refuses with respect to any obligation under this part, to make available to the market administrator or his representative all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies the handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representative;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

MISCELLANEOUS PROVISIONS

§ 1065.90 Effective time.

The provisions of this part or any amendment to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 1065.91.

§ 1065.91 Suspension or termination.

The Secretary may suspend or terminate this part or any provision thereof whenever he finds that it obstructs or does not tend to effectuate the declared policy of the Act. This part shall terminate in any event whenever the provisions of the Act authorizing it cease to be in effect.

§ 1065.92 Continuing obligations.

If, upon suspension or termination of any or all provisions of this part, there are any obligations arising under it, the final accrual or ascertainment of which requires further acts by any person (including the market administrator) such further acts shall be performed notwithstanding such suspension or termination.

§ 1065.93 Liquidation.

Upon the suspension or termination of the provisions of this part, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

§ 1065.94 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 1065.95 Separability of provisions.

If any provision of this part, or its application to any person or circumstances is held invalid, the application of such provision and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Effective date: May 1, 1968.

Signed at Washington, D.C., on April 25, 1968.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 68-5164; Filed, Apr. 30, 1968; 8:45 a.m.]

[Milk Order No. 134]

PART 1134—MILK IN WESTERN COLORADO MARKETING AREA

Order Amending Order

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AUTHORITY: §§ 1134.0 to 1134.101 issued under secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

§ 1134.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Western Colorado marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 5 cents per hundredweight or such amount not to exceed 5 cents per hundredweight as the Secretary may prescribe with respect to:

(a) Producer milk (including that classified under § 1134.43(b), but excluding, in the case of a cooperative association which is a handler under § 1134.11(d), milk which was received at the pool plant of another handler) and such handler's own production.

(b) Other source milk allocated to Class I under § 1134.46(a) (4) and (8) and the corresponding steps of § 1134.46 (b); and

(c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area which exceeds Class I milk received during the month at such plant from pool plants and other order plants.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than May 1, 1968. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator, Regulatory Programs, was issued February 26, 1968 (33 F.R. 3549), and the decision of the Assistant Secretary containing all amendment provisions of this order was issued April 17, 1968 (33 F.R. 6108). The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order effective May 1, 1968, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (5 U.S.C. 553(d) (1966).)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act.

(2) The issuance of this order, amending the order, is the only practical means, pursuant to the declared policy of the Act, of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Western Colorado marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended as follows:

DEFINITIONS

§ 1134.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 1134.2 Secretary.

"Secretary" means the Secretary of Agriculture or any officer or employee of the United States authorized to exercise the powers or to perform the duties of the Secretary of Agriculture.

§ 1134.3 Department.

"Department" means the U.S. Department of Agriculture or such other Federal agency authorized to perform the price reporting functions specified in this part.

§ 1134.4 Person.

"Person" means any individual, partnership, corporation, association, or any other business unit.

§ 1134.5 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members; and

(c) Has its entire activities under the control of its members.

§ 1134.6 Western Colorado marketing area.

"Western Colorado marketing area", hereinafter called "marketing area", means all the territory within the outer boundaries of the following counties in the State of Colorado:

Delta.	Mesa.
Garfield.	Montrose.

§ 1134.7 Distributing plant.

"Distributing plant" means any plant at which fluid milk products are pasteurized or packaged and from which Grade A fluid milk products are disposed of on a route in the marketing area.

§ 1134.8 Supply plant.

"Supply plant" means any plant at which Grade A milk is received from dairy farmers and from which fluid milk products are moved to a pool distributing plant.

§ 1134.9 Pool plant.

"Pool plant" means any plant meeting the conditions of paragraph (a) or (b) of this section, except the plant of a producer-handler or the plant of a handler exempt under § 1134.61.

(a) Any plant hereinafter referred to as a "distributing pool plant," in which during the month fluid milk products are processed or packaged and from which:

(1) An amount equal to 50 percent or more of the total receipts of Grade A milk (except receipts from distributing pool plants) is disposed of as fluid milk products on routes, and

(2) Ten percent or more of such receipts, or 2,000 pounds per day, whichever is less, are disposed of on routes in the marketing area; and

(b) Any plant hereinafter referred to as a "supply pool plant" from which during the month 50 percent of its dairy farm supply of Grade A milk is moved to distributing pool plants. Any supply plant which has qualified as a pool plant

in each of the months of September through February shall be a pool plant in each of the following months of March through August, unless written request for nonpool status for any such month(s) is furnished in advance to the market administrator. A plant withdrawn from supply pool plant status may not be reinstated for any of the following months of March through August unless it fulfills the shipping requirements of this paragraph for such month(s).

§ 1134.10 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued under the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued under the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which Grade A fluid milk products are moved during the month to a pool plant.

§ 1134.11 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) Any person in his capacity as the operator of a partially regulated distributing plant;

(c) Any cooperative association with respect to producer milk which it causes to be diverted from a pool plant to a nonpool plant for the account of such cooperative association;

(d) A cooperative association with respect to milk of its member-producers which is delivered from the farm to the pool plant of another handler in a truck owned and operated by the association or by a hauler under contract to the association; or

(e) A producer-handler or any person who operates an other order plant described in § 1134.61.

§ 1134.12 Producer.

"Producer" means any person (other than a producer-handler as defined in any Federal order including this part) who produces milk in compliance with the inspection requirements for fluid consumption of a duly constituted health authority which milk is received at a pool plant or diverted to a nonpool plant within the limits set forth in paragraphs (a) and (b) of this section. The term shall not include such person with respect to milk diverted to a pool plant from an other order plant if the operators of both the transferor and the transferee plants have requested Class III classification in the reports of receipts and utilization filed with their respective market administrators.

(a) A cooperative association may divert for its account the milk of any member-producer from whom not less than 3 days' production was received during the month at a pool plant. The total quantity of milk so diverted may not exceed 60 percent in the months of March, April, May, June, July, August, and 30 percent in other months, of its member-producer milk received at pool plants during the month. Diversions in excess of such percentages shall not be considered producer milk, and the diverting cooperative shall specify the dairy farmers whose milk is not eligible as producer milk. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member-producers if each association has filed a request in writing with the market administrator on or before the first day of the month the agreement is effective. Such request shall specify the basis for assigning overdiverted milk to the producer-members of each cooperative association, at a time and in a manner approved by the market administrator.

(b) A handler may divert for his account the milk of any producer, other than a member of a cooperative association which has diverted milk under paragraph (a) of this section, from whom not less than 3 days' production was received during the month at the pool plant. The total quantity of milk so diverted may not exceed 60 percent in the months of March, April, May, June, July, August, and 30 percent in other months, of the milk received at such distributing pool plant during the month from producers who are not members of a cooperative association which has diverted milk under paragraph (a) of this section. Diversions in excess of such percentages shall not be considered producer milk, and the diverting handler, at a time and in a manner approved by the market administrator, shall specify the dairy farmers whose milk is ineligible as producer milk.

(c) For the purpose of the requirements of § 1134.9 milk diverted for the account of the operator of a distributing pool plant, except an operator who is also a cooperative association diverting milk in the same month under paragraph (a) of this section, shall be included in the receipts of the pool plant from which diverted.

(d) For the purpose of location adjustments under §§ 1134.52 and 1134.81, milk diverted to a nonpool plant shall be considered to have been received at the location of the pool plant from which diverted.

§ 1134.13 Producer-handler.

"Producer-handler" means any individual, partnership, or corporation which operates a dairy farm and a distributing plant, and which receives at such plant or for disposition on routes no fluid milk products during the month from other dairy farmers or from any other source except by transfer from a pool plant. The amount of such products transferred and of nonfluid other source milk reconstituted into fluid milk products during the month shall not exceed the lesser of 5,000 pounds or 5 percent of said person's Class I utilization for the month.

§ 1134.14 Producer milk.

"Producer milk" means all skim milk and butterfat in milk produced by a producer. This definition shall not include milk diverted to an other order plant if such milk is fully subject to the pricing and pooling provisions of the other order.

(a) With respect to receipts at a pool plant for which the handler operating such plant is to be responsible under § 1134.70;

(1) Received directly from such producer; and

(2) Diverted from such pool plant to a nonpool plant for the account of the operator of the pool plant, subject to the limitations and conditions provided in § 1134.12;

(b) With respect to the additional receipts of a cooperative association:

(1) For which the cooperative association is the handler under § 1134.11(c) subject to the limitations and conditions provided in § 1134.12; and

(2) For which the cooperative association is the handler under § 1134.11(d). If the milk received at a pool plant from a handler under § 1134.11(d) is purchased on a basis other than farm weights, the amount by which the total farm weights of such milk exceed the weights on which the pool plant's purchases are based shall be producer milk received by the handler under § 1134.11 (d) at the location of the pool plant.

§ 1134.15 Other source milk.

"Other source milk" means all the skim milk and butterfat contained in:

(a) Receipts during the month of fluid milk products from any source except:

(1) Producer milk;

(2) Fluid milk products received from other pool plants;

(3) Receipts from a cooperative association under § 1134.11(d); and

(b) Products (except Class II products received from pool plants) other than fluid milk products, from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month, and any disappearance of nonfluid milk products not otherwise accounted for under § 1134.33.

§ 1134.16 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, reconstituted milk or skim milk, fortified milk or skim milk (including "diet" foods), cream (sweet or sour), half and half, or any mixture in fluid form of milk or skim milk and cream (except ice cream mix, frozen dessert

mix, frozen cream, aerated cream, eggnog, cultured sour mixes to which cheese or any food substance other than a milk product has been added in an amount not less than three percent by weight of the finished product), which are neither sterilized nor in hermetically sealed containers.

§ 1134.17 Route.

"Route" means any delivery to retail or wholesale outlets (including delivery by a vendor or a sale from a plant or plant store), of any fluid milk product other than a delivery to a pool plant or a delivery in bulk to a nonpool plant.

§ 1134.18 Chicago butter price.

"Chicago butter price" means the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department.

MARKET ADMINISTRATOR

§ 1134.20 Designation.

The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at, the discretion of the Secretary.

§ 1134.21 Powers.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 1134.22 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to the following:

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions of this part;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds received by § 1134.88 the cost of his bond and those of his employees, his own compensation, and all other expenses (except those incurred under § 1134.87) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(g) Verify all reports and payments of each handler, by audit of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends and by such other means as are necessary;

(h) Publicly announce at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person, who within 10 days after the date upon which he is required to perform such acts, has not made (1) reports under §§ 1134.30 to 1134.32, or (2) payments under §§ 1134.80 to 1134.88;

(i) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate, and mail to each handler at his last known address, the prices determined for each month as follows:

(1) On or before the 6th day of each month the Class I price and butterfat differential for the month computed under §§ 1134.51(a) and 1134.53(a), respectively;

(2) On or before the 6th day of each month, the Class II and Class III milk prices and the Class II and Class III butterfat differentials for the preceding month computed under §§ 1134.51 (b) and (c) and 1134.53 (b) and (c), respectively;

(3) On or before the 12th day of each month, the uniform price for producer milk computed under § 1134.71, and the butterfat differential computed under § 1134.82, both for the preceding month.

(j) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the amount and class utilization of producer milk delivered by members of such association to each handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

(k) Prepare and make available for the benefit of producers, consumers, and handlers, such general statistics and such information concerning the operations hereof as are appropriate to the purpose and functioning of this part and which do not reveal confidential information;

(l) Whenever required for purpose of allocating receipts from other order plants under § 1134.46(a)(9) and the corresponding step of § 1134.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated under § 1134.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

REPORTS, RECORDS, AND FACILITIES

§ 1134.30 Reports of receipts and utilization.

On or before the seventh day after the end of the month the following handlers shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(a) Each handler who operates a pool plant(s) shall report for each such plant:

(1) The receipts of milk and the pounds of butterfat contained therein:

(i) From producers including that diverted under § 1134.12(b); and

(ii) From cooperative association handlers under § 1134.11(d).

(2) The quantities of skim milk and butterfat contained in (or used in the production of) fluid milk products received from other pool plants;

(3) The quantities of skim milk and butterfat contained in receipts of other source milk;

(4) The pounds of skim milk and butterfat contained in all fluid milk products on hand both in bulk and in packages at the beginning and at the end of the month;

(5) The utilization of all skim milk and butterfat required to be reported under this section;

(6) In case of diversions to nonpool plants, the following additional information:

(i) The name of the plant to which diverted;

(ii) The name of the individual dairy farmers so diverted;

(iii) The pounds of skim milk and butterfat from each dairy farmer contained in the milk diverted;

(iv) The number of days milk of the dairy farmer was received at a pool plant; and

(7) Such other information with respect to receipts and utilization as the market administrator may prescribe; and

(b) Each cooperative association shall report with respect to milk for which it is a handler under § 1134.11 (c) or (d) as follows:

(1) Receipts of skim milk and butterfat from producers;

(2) Utilization of skim milk and butterfat diverted to nonpool plants;

(3) The quantities of skim milk and butterfat delivered to each pool plant of another handler; and

(4) In the case of diversions to nonpool plants, the following additional information:

(i) The name of the plant to which diverted;

(ii) The name of the individual dairy farmers so diverted;

(iii) The pounds of skim milk and butterfat from each dairy farmer contained in the milk so diverted;

(iv) The number of days milk of the dairy farmer was received at a pool plant of the diverting order; and

(c) Each handler operating a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts of Grade A milk from dairy farmers shall be reported in lieu of receipts from producers; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of in the marketing area as Class I milk on routes.

§ 1134.31 Payroll reports.

On or before the 23d day of each month the following handlers shall report as follows to the market administrator:

(a) Each handler who operates a pool plant(s) shall submit to the market administrator his payroll for receipts of milk at each of his pool plants during the preceding month which shall show:

(1) The name and the days of delivery of each producer from whom milk was received during the month with the address of any producer for whom such information was not furnished previously;

(2) The total pounds of milk, the average butterfat test thereof, and the pounds of butterfat received from each producer, identifying separately those producers for whom a cooperative association is authorized to collect payments under § 1134.80(c);

(3) The amount of payment to each producer, to each cooperative association on behalf of its producer members and to each cooperative association handler; and

(4) The nature and amount of any deductions or charges involved in such payments.

(b) Each handler who operates a partially regulated distributing plant and elects to make payments under § 1134.62 (a) shall report as required in paragraph (a) of this section except that receipts of Grade A milk from dairy farmers shall be reported in lieu of receipts from producers; and

(c) Each cooperative association shall report with respect to milk for which it is the handler under § 1134.11 (c) and (d) the name and the number of days of delivery, with the address of any producers not previously reported, the total pounds of milk and the average butterfat content thereof which was received from each producer.

§ 1134.32 Other reports.

Each producer-handler, each handler required to report under § 1134.61 and each handler making payments under § 1134.62(b) shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

§ 1134.33 Records and facilities.

Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipt and utilization of all skim milk and butterfat handled in any form;

(b) The weights and tests for butterfat and other content of all milk and milk products handled;

(c) The pounds of skim milk and butterfat contained in or represented by all milk products on hand at the beginning and end of each month; and

(d) Payments to producers, or to cooperative associations, including any deductions and the disbursement of money so deducted.

§ 1134.34 Retention of records.

All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which such books and records pertain. If within such 3-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1134.40 Skim milk and butterfat to be classified.

All skim milk and butterfat which is required to be reported under § 1134.30 shall be classified under the provisions of §§ 1134.41 through 1134.46. If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk disposed of by use in such product shall be considered to be a quantity equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 1134.41 Classes of utilization.

Subject to the conditions set forth in §§ 1134.42 through 1134.46, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product except:

(i) Any products fortified with added nonfat milk solids shall be Class I in an amount equal only to the weight of an equal volume of milk, skim milk or cream of the same butterfat content; and

(ii) As classified under paragraph (c) (2), (3), and (5) of this section;

(2) In inventory of fluid milk products in packaged form on hand at the end of the month; or

(3) Not specifically accounted for as Class II or Class III.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat used to produce cottage cheese except as classified under paragraph (c) (2) and (3) of this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product or a Class II product;

(2) In fluid milk products or cottage cheese disposed of in bulk form for livestock feed;

(3) In fluid milk products or cottage cheese which are dumped after prior notification to and opportunity for verification by the market administrator;

(4) Contained in any fortified fluid milk product in excess of the pounds classified as Class I milk under paragraph (a)(1)(i) of this section;

(5) Disposed of in fluid milk products in 2-gallon containers or larger (other than those designed for use as fluid milk dispensers or in fluid milk dispensing machines) to any commercial food processing establishment, which does not dispose of fluid milk products for fluid consumption, or which does not use fluid milk products in any other type of food prepared for consumption on the premises;

(6) In inventory of bulk fluid milk products on hand at the end of the month;

(7) In shrinkage at each pool plant allocated under § 1134.42(b)(2), not to exceed the following:

(i) Two percent of receipts of producer milk described in § 1134.14(a); plus

(ii) 1.5 percent of receipts from a cooperative association in its capacity as a handler under § 1134.11(d), except that if the handler operating the pool plant files with the market administrator notice that he is purchasing such milk on the basis of farm weights and butterfat tests determined by farm bulk tank samples, the applicable percentage shall be 2 percent; plus

(iii) 1.5 percent of milk received in bulk tank lots from other pool plants; plus

(iv) 1.5 percent of receipts of fluid milk products in bulk tank lots from an other order plant, exclusive of the quantity for which Class III utilization was requested by the operator of such plant and the handler; plus

(v) 1.5 percent of receipts of fluid milk products in bulk tank lots from unregulated supply plants, exclusive of the quantity for which Class III utilization was requested by the handler; less

(vi) 1.5 percent of milk disposed of in bulk to other plants either by transfer or diversion.

(8) In shrinkage allocated under § 1134.42(b)(1); and

(9) In shrinkage resulting from milk for which a cooperative association is the handler under § 1134.11 (c) and (d) not being delivered to pool plants and nonpool plants, but not in excess of one-half percent of such receipts, exclusive of those for which farm weights and tests are used as the basis of receipts at the plant to which delivered.

§ 1134.42 Assignment of shrinkage.

The market administrator shall assign a handler's shrinkage at each pool plant as follows:

(a) Compute the total shrinkage of skim milk and butterfat for each handler; and

(b) For each handler prorate the resulting amount between:

(1) The pounds of skim milk and butterfat in other source milk received in bulk in the form of fluid milk products exclusive of that specified in § 1134.41 (c)(7); and

(2) The maximum pounds of skim milk and butterfat computed under § 1134.41(c)(7) divided by 0.02.

§ 1134.43 Responsibility of handlers and reclassification of milk.

(a) Except as provided in paragraphs (b) and (c) of this section, all skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise;

(b) For the purposes of §§ 1134.41 through 1134.46, 1134.51 through 1134.54, and 1134.70 through 1134.72, milk delivered by a cooperative association in its capacity as a handler under § 1134.11 (d) and milk delivered in bulk to a pool plant from a pool plant operated by a cooperative association shall be classified and allocated as producer milk according to the use or disposition by the receiving handler, and the value thereof at class prices shall be included in the receiving handlers' net pool obligations under § 1134.70;

(c) In the case of milk received from producers by a cooperative association handler under § 1134.11(d) the cooperative association shall be responsible for proving that skim milk and butterfat in such milk which was not received at a pool plant should be classified other than as Class I and the operator of a pool plant receiving skim milk and butterfat from a cooperative association handler under § 1134.11(d) shall be responsible for proving that such skim milk and butterfat shall be classified other than as Class I; and

(d) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 1134.44 Transfers.

Skim milk and butterfat disposed of in the form of a fluid milk product (or a Class II product moved between pool plants) by a handler, including a handler under § 1134.11(c), either by transfers or diversions, shall be classified as follows:

(a) At the utilization mutually indicated in writing to the market administrator by the operators of both plants, on or before the seventh day after the end of the month within which such transfer occurred, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations under § 1134.46(a)(9) and the corresponding step of § 1134.46(b);

(2) If the transferor plant received during the month other source milk to be allocated under § 1134.46(a)(4) and the corresponding step of § 1134.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated under § 1134.46(a) (8) or (9) and the corresponding steps of § 1134.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred in consumer packages to a nonpool plant that is not an other order plant;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator under § 1134.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued under the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned under subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants;

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk to the extent of such uses at the plant and then as Class III milk;

(v) If any skim milk or butterfat is transferred to a second nonpool plant under this subparagraph, the same conditions of audit, classification and allocation shall apply; and

(e) As follows, if transferred or diverted to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred or diverted in bulk form, classification shall be in Class I if allocated as a fluid milk product under the other order to Class I, in Class II if allocated to Class II under an order which provides three classes and in Class III if allocated to Class III under the other order or if allocated to Class II under an order which provides only two classes (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the transferor and the transferee handlers so request in the reports

of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class III to the extent of the Class III utilization (or comparable utilization under such other order) available for such assignment under the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for only two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to another class shall be classified as Class III; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1134.41.

§ 1134.45 Computation of skim milk and butterfat in each class.

For each month the market administrator shall correct for mathematical and other obvious errors, the reports of receipts and utilization submitted under § 1134.30 and shall compute the skim milk and butterfat in each class at each pool plant of each handler (including milk diverted under § 1134.12), and the pounds of skim milk and butterfat in each class which was received from producers by a cooperative association handler under § 1134.11 (c) and (d) and was not received at a pool plant. Producer milk for which a cooperative association is the responsible handler under § 1134.-11 (c) or (d) shall be treated separately from the operations of any pool plant(s) operated by such cooperative association for the purpose of allocation under § 1134.46 and computation of obligation under § 1134.70.

§ 1134.46 Allocation of skim milk and butterfat classified.

After making the computations under § 1134.45 the market administrator shall determine each month the classification of milk received from producers by each cooperative association handler under § 1134.11 (c) and (d) which was not received at a pool plant and the classification of milk received from producers, from a pool plant operated by a cooperative association and from cooperative association handlers under § 1134.11(d) at a pool plant(s) for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III under § 1134.41(c)(7);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From the utilization comparable under such other order if the products are not classified as Class I under the other order;

(ii) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts, and

(iii) From Class I milk, the remainder of such receipts;

(3) Except for the first month this order is effective, subtract from the remaining pounds of skim milk in Class I, the pounds of skim milk in inventory of fluid milk products in packaged form on hand at the beginning of the month;

(4) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal order;

(5) Subtract in sequence beginning with Class III in the order specified below, from the pounds of skim milk remaining in Class III and Class II;

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class III utilization, but not in excess of the pounds of skim milk remaining in Class III and Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(a) Multiply the pounds of skim milk remaining in Class I by 1.25; and

(b) Subtract from the result the sum of the pounds of skim milk in producer milk, in receipts of fluid milk products from pool plants of other handlers and in receipts of fluid milk products in bulk from other order plants;

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant in excess of similar transfers or diversions to such plant, but not in excess of the pounds of skim milk remaining in Class III (and Class II), if Class III utilization was requested by the transferee handler and the operator of the transferor plant requests the lowest class utilization under the order;

(6) Subtract from the pounds of skim milk remaining in each class, in series, beginning with Class III, the pounds of skim milk in inventory of bulk fluid milk products (and, for the first month the order is effective the pounds of fluid milk products in packaged form) on hand at the beginning of the month;

(7) Add to the remaining pounds of skim milk in Class III milk the pounds subtracted under subparagraph (1) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted under subparagraph (5) (i) or (ii) of this paragraph.

(9) Subtract beginning with Class III from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, in excess in each case of similar transfers to the same plant, that were not subtracted under subparagraph (5) (iii) of this paragraph, using the following procedure:

(i) Such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class III and Class II combined;

(a) The estimated utilization of skim milk in each class by all handlers, as announced for the month under § 1134.22(l); or

(b) The pounds of skim milk remaining in each class at the pool plant of the handler;

(10) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants according to the classification assigned under § 1134.44;

(11) If the remaining pounds of skim milk in all classes exceed the pounds of skim milk contained in milk received from producers, and from cooperative associations under § 1134.11(d) subtract such excess from the remaining pounds of skim milk in series beginning with Class III. Any amount so subtracted shall be known as "overage".

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined under paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

MIMIMUM PRICES

§ 1134.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month, adjusted to a 3.5 percent basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent.

§ 1134.51 Class prices.

(a) *Class I milk.* The Class I milk for each month shall be the price for Class I milk established under Federal Order No. 137 regulating the handling of milk in the Eastern Colorado marketing area f.o.b. Denver, less 5 cents;

(b) *Class II milk price.* The Class II milk price shall be the basic formula price for the month, plus 5 cents.

(c) *Class III milk.* The Class III milk price shall be the basic formula price for

the month but not to exceed a price computed as follows:

(1) Multiply by 4.2 the Chicago butter price;

(2) Multiply by 8.2 the weighted average of carlot prices per pound of spray process nonfat dry milk for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 48 cents, and round to the nearest cent.

§ 1134.52 Location adjustments to handlers.

(a) For milk received from producers, and from a cooperative association under § 1134.11(d), at a pool plant located more than 100 miles by shortest highway distance as measured by the market administrator, from the courthouse in Grand Junction, Colo., and which is classified as Class I milk or assigned Class I location adjustment credit under paragraph (b) of this section and for other source milk to which location adjustments are applicable, the price computed under § 1134.51(a) shall be reduced by 15 cents if such plant is located more than 100 miles but not more than 110 miles from such courthouse, and by an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 110 miles.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and cooperative associations under § 1134.11(d), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor plants at which no adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1134.53 Butterfat differentials to handlers.

(a) *Class I milk.* Multiply the Chicago butter price for the preceding month by 0.130.

(b) *Class II milk.* Multiply the Chicago butter price for the current month by 0.120; and

(c) *Class III milk.* Multiply the Chicago butter price for the current month by 0.120.

§ 1134.54 Use of equivalent prices.

If for any reason a price quotation required by this order for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

APPLICATION OF PROVISIONS

§ 1134.60 Producer-handler.

Sections 1134.40 through 1134.54 and §§ 1134.70 through 1134.88 shall not apply to a producer-handler.

§ 1134.61 Exempt plants.

The provisions of this part shall not apply to a plant specified in this section except that the operator of such plant shall make such reports of receipts and utilization of milk as the market administrator may require and allow verification of such reports by the market administrator.

(a) Any distributing plant from which less than an average of 200 pounds per day of Class I milk is disposed of on routes in the marketing area during the month.

(b) Any distributing plant which would be subject to the classification and pricing provisions of another order issued under the Act, unless such plant is qualified as a pool plant under § 1134.9(a) and more Class I milk is disposed of from such plant on routes in the Western Colorado marketing area than in the marketing area defined under such other order.

(c) Any plant qualified under § 1134.9 (b) for any portion of the period of March through August, inclusive, that the milk at such plant is subject to the classification and pricing provisions of another order issued under the Act.

§ 1134.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant except one exempt under § 1134.61 shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) computed under paragraphs (a) or (b) of this section. If the handler fails to report, under § 1134.30(c), the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed under paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed under § 1134.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class III (or Class II) milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1134.70(e) and a credit in the amount specified in § 1134.84(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified in subdivision (ii) of this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports under § 1134.32 similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1134.9(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations under subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued under the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location (not to be less than the Class III price).

DETERMINATION OF UNIFORM PRICE

§ 1134.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler and of each cooperative association handler under § 1134.11 (c) and (d) during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed under

§ 1134.46(c), by the applicable class prices (adjusted under §§ 1134.52 and 1134.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class under § 1134.46 (a)(11) and the corresponding step of § 1134.46(b) by the applicable class prices;

(c) Add the amounts computed under subparagraphs (1), (2), and (3) of this paragraph:

(1) Multiply the difference between the appropriate Class III price for the preceding month and the appropriate Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I under § 1134.46(a)(6) and the corresponding step of § 1134.46(b), for the current month;

(2) Multiply the difference between the appropriate Class III price for the preceding month and the appropriate Class II price for the current month by the hundredweight of skim milk and butterfat subtracted from Class II milk under § 1134.46(a)(6) and the corresponding step of § 1134.46(b), for the current month, or the hundredweight of skim milk and butterfat remaining in Class III milk after the computation under § 1134.46(a)(9) and the corresponding step of § 1134.46(b), for the preceding month, less the hundredweight used in computation under subparagraph (1) of this paragraph, whichever is less; and

(3) Multiply the difference between the appropriate Class I price for the preceding month and the appropriate Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I under § 1134.46(a)(3) and the corresponding step of § 1134.46(b). If the Class I price for the current month is less than the Class I price for the preceding month, the result shall be a minus amount;

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class III price, with respect to skim milk and butterfat in other source milk subtracted from Class I under § 1134.46(a)(4) and the corresponding step of § 1134.46(b); and

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent weight was received, with respect to skim milk and butterfat subtracted from Class I under § 1134.46(a)(8) and the corresponding step of § 1134.46(b).

§ 1134.71 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed under § 1134.70 for all handlers who filed the reports prescribed by § 1134.30 for the month and who made the payments under §§ 1134.80 and 1134.84 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed under § 1134.81;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed under § 1134.82 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed under § 1134.70(e);

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1134.72 Notification of handlers.

On or before the 12th day after the end of each month, the market administrator shall mail to each handler, at his last known address, a statement showing:

(a) The amount and value of his producer milk in each class and the total thereof;

(b) The uniform price computed under § 1134.71 and the producer location and butterfat differentials computed under §§ 1134.81 and 1134.82; and

(c) The amounts to be paid by such handler under §§ 1134.84, 1134.86, 1134.87, and 1134.88 and the amounts due such handler under §§ 1134.85 and 1134.86.

PAYMENTS

§ 1134.80 Payment to producers.

Except as provided in paragraph (c) of this section, each handler shall make payment to each producer from whom milk is received as follows:

(a) Not later than the last day of the month, to each producer from whom he received milk during the first 18 days of the month, a partial payment for the milk received during the first 15 days of the month, at the Class III price for the preceding month.

(b) Not later than the 16th day of the month, for milk received during the preceding month, an amount computed at not less than the uniform price per hundredweight (§ 1134.71), subject to the butterfat differential (§ 1134.82), location adjustment (§ 1134.81), and adjustments for errors made in previous payments minus (1) payments made under paragraph (a) of this section, (2) marketing service deductions (§ 1134.87), and (3) deductions approved by the market administrator and authorized in writing by the producer. If the handler has not received full payment for the delivery period from the market administrator under § 1134.85, he may reduce his total payments to all producers uniformly by the amount owing to him by the market administrator. The handler shall, however, complete all payments not later than the 16th day of the month following receipt of the balance from the market administrator.

(c) (1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk, and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim by the cooperative association, each handler shall pay to the cooperative association on or before the second day preceding the dates set out in paragraphs (a) and (b) of this section an amount equal to the sum of the individual payments otherwise payable to the producer members of such organization. This payment shall be made for all milk of such producer certified by the cooperative association as a member, beginning the first day of the month following receipt of the certification and ending the last day of the month next preceding the date on which a written notice from the cooperative association terminating the membership was received.

(2) A copy of the request for payment, promise to reimburse, and certified list of members, shall be filed simultaneously with the market administrator. He may verify the information by auditing the records of the cooperative association. Exceptions to the accuracy of the membership certification, by a producer or by a handler, shall be made in writing to the market administrator for his determination.

(d) In making the payments to producers under paragraphs (b) and (c) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk, a supporting statement which shall show for each month:

(1) The month and the identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required under this part;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer.

(e) For milk received from a pool plant operated by a cooperative association or by bulk tank delivery under § 1134.11(d), each handler shall on or before the second day prior to the date payments are due individual producers, pay such cooperative association for milk as follows:

(1) A partial payment for milk received during the first 15 days of the month at not less than the Class III price for the preceding month; and

(2) A final settlement equal to the value of such milk at the uniform price, adjusted by the applicable differentials under §§ 1134.81, and 1134.82, less payment made under subparagraph (1) of this paragraph.

§ 1134.81 Location differentials to producers and on nonpool milk.

(a) The uniform price to be paid for milk received at a pool plant from producers, in bulk from a pool plant operated by a cooperative association and from a cooperative association handler under § 1134.11(d) may be reduced by the amount of the location differential applicable at the location of the pool plant at which such milk was first physically received from producers, and the uniform price for producer milk diverted to a nonpool plant shall be reduced according to the location of such nonpool plant, each at the rates set forth in § 1134.52; and

(b) For purposes of computations under §§ 1134.84 and 1134.85 the uniform price shall be adjusted at the rates set forth in § 1134.52 applicable at the location of the nonpool plant from which the milk was received.

§ 1134.82 Butterfat differential to producers.

The applicable uniform price to be paid to producers under § 1134.80 shall be increased or decreased for each one-tenth of one percent which the butterfat content of his milk is above or below 3.5 percent, respectively, by a butterfat differential equal to the average of the butterfat differentials determined under § 1134.53 (a), (b), and (c), weighted by the pounds of butterfat in producer milk in each class and the result rounded to the nearest tenth of a cent.

§ 1134.83 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers under §§ 1134.62, 1134.84, and 1134.86 and out of which he shall make all payments under §§ 1134.85 and 1134.86: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

§ 1134.84 Payments to the producer-settlement fund.

On or before the 13th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed under § 1134.70 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1134.80; and

(2) The value at the uniform price(s) applicable at the location of the plant(s) from which received (not to be less than the value at the Class III price) with respect to other source milk for which a value is computed under § 1134.70(e).

§ 1134.85 Payments out of the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed under § 1134.84(b) exceeds the amount computed under § 1134.84(a). If at such time the balance in the producer-settlement fund is insufficient to make all payments under this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1134.86 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts or other verification discloses errors resulting in moneys due a producer or the market administrator from such handler or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred.

§ 1134.87 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers for milk (other than milk of his own production) under § 1134.80, shall deduct 6 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 13th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such services from a cooperative association:

(b) For producers who are members of a cooperative association which the Secretary has determined is performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to producers as may be authorized by the membership agreement or marketing contract between the cooperative association and its members and on or before the 14th day after the end of each month, the handler shall pay the aggregate amount of such deductions to the cooperative association, furnishing a statement showing the amount of the deductions and the quantity of milk on which the deduction for each producer was computed.

§ 1134.88 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 13th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including that classified under § 1134.43(b), but excluding, in the case of a cooperative association which is a handler under § 1134.11 (d), milk which was received at the pool plant of another handler) and such handler's own production;

(b) Other source milk allocated to Class I under § 1134.46(a) (4) and (8) and the corresponding steps of § 1134.46 (b); and

(c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area which exceeds Class I milk received during the month at such plant from pool plants and other order plants.

§ 1134.89 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the month during which the market administrator received the handler's utilization report on the milk involved in such obligation, unless within such 2-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to a cooperative association, the names of such producer(s) or cooperative association, or if the obligation is payable to the market administrator, the account for which it is to be paid;

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator notifies a handler, the said two-year period, with respect to such obligation, shall not begin to run until the first day of the month following the month during which all such books and records pertaining to such obligations are made available to the market administrator or his representatives;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section

a handler's obligations under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate 2 years after the end of the month during which the milk involved in the claim was received if an underpayment is claimed, or 2 years after the end of the month during which the payment (including deduction or offiset by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, under section 8c(15)(A) of the Act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 1134.90 Effective time.

The provisions of this part or any amendment thereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 1134.91 Suspension or termination.

The Secretary shall, whenever he finds that any or all provisions of this part or any amendment thereto, obstruct, or do not tend to effectuate the declared policy of the Act, terminate or suspend the operation of any or all provisions of this part or any amendments thereto. This part shall terminate in any event whenever the provisions of the Act authorizing it cease to be in effect.

§ 1134.92 Continuing obligations.

If upon the suspension or termination of any or all provisions of this part, or any amendment thereto, there are any obligations thereunder, the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 1134.93 Liquidation.

Upon the suspension or termination of any or all provisions of this part, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1134.100 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent and representative in connection with any of the provisions of this part.

§ 1134.101 Separability of provisions.

If any provisions of this part, or its application to any person or circumstances, is held invalid, the application of such provisions, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Effective date: May 1, 1968.

Signed at Washington, D.C., on April 25, 1968.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 68-5163; Filed, Apr. 30, 1968; 8:45 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 630—ABSENCE AND LEAVE

Earning Rates

Section 630.604(a)(1) is amended to make clear that an employee must actually accept appointment to, or occupy a position in which he is required to take assignment anywhere in the world in order to earn 15 days home leave. Subparagraph (1) of paragraph (a) of § 630.604 is amended as set out below.

§ 630.604 Earning rates.

(a) For each 12 months of service abroad, an employee earns home leave at the following rate:

(1) An employee who accepts an appointment to, or occupies, a position for which the agency has prescribed the requirement that the incumbent accept assignments anywhere in the world as the needs of the agency dictate—15 days.

* * * * *

(5 U.S.C. 6311)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 68-5238; Filed, Apr. 30, 1968; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 68-WE-36]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

Correction

In F.R. Doc. 68-4853, appearing at page 6237 in the issue of Wednesday, April 24, 1968, the third line from the bottom should read "be effective 0901 G.m.t. June 20, 1968.".

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Regulation No. ER-536]

PART 288—EXEMPTION OF AIR CARRIERS FOR MILITARY TRANSPORTATION

Miscellaneous Amendments

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., 25th day of April 1968.

On February 20, 1968, by notice of proposed rule making EDR-133/PSDR-20 (33 F.R. 3645), the Board proposed to amend Part 288 of the economic regulations by changing minimum rates for Category B military charters performed with turbine aircraft and for Category A and X individual military transportation, by providing a blanket exemption from section 403 of the Act for Category A and X services and incorporating the minimum rates for those services in Part 288, and by revising the definition of substitute service to eliminate the 3-week limitation on such service. Written data, views, and arguments have been filed in response to the notice by 14 air carriers[1] and the Department of Defense (DoD). All comments and supporting materials before the Board have been carefully considered, and all contentions not otherwise disposed of hereinafter are rejected. Final amendments to Part 399 are being adopted concurrently herewith.

No adverse comments were received with respect to the proposal to revise the definition of substitute service. We will therefore adopt the proposal for the reasons set forth in the notice, which are incorporated herein by reference.

I. CATEGORY B MINIMUM RATES FOR LARGE TURBOJET AIRCRAFT

A. RATES ADOPTED

Upon consideration of the comments received and adjusted cost data, the Board has adopted revised minimum fair and reasonable rates. The existing basic minimum rates for Category B charters, those proposed in the notice, and those adopted herein for large turbojet aircraft are as follows:

	Regular turbojets		DC-8F-61, -63	
	Round trip	One way	Round trip	One way
Passenger, per passenger-mile:	*Cents*	*Cents*	*Cents*	*Cents*
Present	1.86	3.40	1.67	3.05
Proposed	1.75	3.15	1.75	3.15
Adopted	1.75	3.15	1.75	3.15
Cargo, per ton-mile:				
Present	7.45	14.81	6.77	13.46
Proposed	7.00	13.93	7.00	13.93
Adopted	7.06	14.05	7.06	14.05

B. COSTS OF SERVICE

As stated in the notice, our adjustments to the carriers' forecast costs were generally based on policies developed in previous reviews of minimum rates. The discussion in the notice and Appendices A and B thereof, which set forth in detail the individual carrier costs for each aircraft type in passenger and cargo service, are incorporated herein by reference. The carriers' written comments with respect to the cost adjustments are discussed in the following paragraphs.

1. *Higher costs for DoD services.* A number of carriers contend that the Board erred in not allowing certain costs for DoD operations at their claimed higher level per unit for DoD than the system experienced unit costs. These contentions are that the minimum rates should reflect:

(a) The greater incidence of nonrevenue miles (over and above the noncommercial backhauls to DoD one-way charters) involved in DoD than in commercial services for pre- and post-positioning of aircraft to and from military bases and for periodic ferry trips to distant company maintenance centers. Northwest points out that, in fiscal 1967, such hours constituted 6.5 percent of total hours in DoD services, 2.7 percent in commercial services, and 4 percent overall. The carrier made available to the Board company records in support of its contention.

(b) The actual crew costs entailed in DoD services. The carriers in justification point out that the nature of their DoD charters results in poorer crew utilization and higher crew personnel expenses for such services than for commercial services. At informal technical conferences preceding the preparation of the notice, some carriers also indicated that the senior crews tended to prefer DoD flights in their bids, so that the average crew compensation applicable to DoD was higher than for non-DoD services.

In addition, Continental urges that the proposed rates be increased or that a guarantee be provided that will permit carriers to augment crews so that surges in utilization of aircraft for DoD can be accomplished without cancellation of scheduled services, and Saturn proposes that the Board set a standard jet fuel price pegged to the minimum charter rate. Increases in fuel prices above such pegged standard would necessitate compensating supplementary payments by DoD.

Regarding the claim that the minimum rates should compensate for higher DoD positioning and depositioning costs above each carrier's average, consistent with our approach in the preceding review, we have treated the costs of positioning, depositioning, and maintenance flights as a system expense subject to allocation to DoD services. The extent of such flights varies from carrier to carrier, depending upon the circumstances peculiar to each carrier. To some extent these costs are within the discretion of the carriers, are responsive to the carrier's aircraft routing practices, and they are incurred to meet the joint requirements of both commercial and DoD services. The additional volume and increased utilization provided by DoD charters presumably benefit the carrier's entire operation. Accordingly, we are not persuaded that an allowance over and above the carrier's average experience is warranted and will adhere to the treatment followed in the preceding review.

[1] Airlift International, Inc.; Braniff Airways, Inc.; Capitol International Airways, Inc., and Trans Caribbean Airways, Inc., jointly; Continental Air Lines, Inc.; Eastern Air Lines, Inc.; Northwest Airlines, Inc.; Pan American World Airways, Inc.; Saturn Airways, Inc.; Seaboard World Airlines, Inc.; Trans International Airlines, Inc.; Trans World Airlines, Inc.; Universal Airlines, Inc.; and World Airways, Inc.

The contentions regarding crew costs pose a more difficult judgment. Clearly, when the flightcrew or cabin-crew composition is significantly different for DoD from that for commercial services, and is not within the carrier's control, the cost implications of such differences should be recognized. For example, if a navigator is required for DoD services but not for commercial services, it is appropriate to recognize such significant extra cost for DoD services, for otherwise the commercial services would be partially burdened with a DoD service cost. The notice reflects such cost as claimed by TWA for its cargo services. On the other hand, it appears unreasonable for ratemaking purposes to accept concepts that would recognize (1) abnormal crew costs such as claimed by Eastern and TWA because of their peculiar DoD operational problems or (2) certain controversial specialized features inflating DoD costs [2] when the carriers have no incentive to show offsetting elements in other cost areas, such as greater stage lengths and block speeds, operating in the contrary direction. Eastern's and TWA's abnormally high crew-cost forecasts stem from the fact that crew utilization deteriorates and crew personnel expenses multiply when operating for DoD in the Pacific, since their predominant operations are oriented along the East Coast. Acceptance of such abnormal costs would lessen incentives for carriers to control costs and would burden DoD with an inflated overall cost disproportionate to the benefits to be received. Hence in the case of Eastern and TWA, under the circumstances, we have reflected their overall crew-cost levels rather than the abnormal cost levels they claimed for DoD services. We have also relied upon overall cost levels and have not recognized the controversial specialized features unless a balanced cost forecast was submitted that delineated DoD costs in their entirety without stressing only the elements that are higher for DoD. Based upon the foregoing considerations, we affirm our reliance, in determining the reasonable crew costs, upon Airlift's supplemental Form 41 reports, which reflect all Alitalia and DoD charters, and upon Northwest's reported foreign Form 41 data, in lieu of the carriers' claimed actual DoD crew costs.

Compliance with the request of Continental for crew augmentation cost allowances in effect would impose on DoD a continuing charge for standby crews sufficient to meet peak emergency requirements. There is no indication that any of the carriers incur any such cost. Furthermore, although some disruptions to the commercial segment may result, the response of the civil air carriers to the recent emergency in February and March of 1968 demonstrated the advantages and economies inherent in the present flexible system that permits reasonable short term contraction of commercial services in deference to the paramount national military requirements. Accordingly, we are not persuaded to accede to Continental's proposal.

We also decline to accept Saturn's proposal for pegged fuel prices. We see no reason why a single item of cost should be isolated and so treated. If the price of fuel, or any other significant cost element, changes with no other compensating offsetting change, DoD or the carriers are free to petition for appropriate redress.

2. *Cost increases.* Airlift, Continental, Northwest, and Capitol/Trans Caribbean dispute the Board's nonrecognition of cost increases other than annualization of increases not fully reflected in the base period, or those covered by signed contracts or firm offers subsequent to the base period. They urge the Board to project the historical trend of increases in salaries, materials, services, and fuel. This issue has been raised in all previous minimum-rate reviews; and we again reaffirm that, because of the uncertain status of these increases and because they may be offset by operating economies that similarly have not been reflected, we will make no allowance for such projected increases. Again, we point out that the experience of the industry is that consistently it has been able to absorb such increases.

3. *Flight equipment maintenance cost.* TWA objects to the Board's elimination of its adjustments to reported Form 41 flight equipment maintenance costs. TWA states that Form 41 reports show its actual cash expenses incurred during the period covered and contends that the cash basis does not accurately reflect TWA's total maintenance costs when a particular period is isolated. This is inconsistent with its statement filed with the Board in October 1963 to convert from an accrual to a cash basis founded on the claim that TWA's "* * * progressive maintenance procedure allows for an equitable allocation of maintenance costs between accounting periods if recorded on a cash basis." A schedule demonstrating that this method produces a relatively equitable allocation of maintenance costs between accounting periods was filed with the Board as recently as September 15, 1967. In view of TWA's longstanding adherence to the cash basis which we have relied upon, and its recent support therefor, we are not convinced that adjustment is warranted. Furthermore, the major carriers report on the same basis as TWA, so that if there should be an abnormality attached to TWA's reported maintenance cost it can be assumed that the industry averages we have relied upon include compensating factors tending to balance any abnormality in TWA's costs.

4. *Fuel.* The notice reflects TWA's fuel cost forecast, except for a claim for higher DoD fuel consumption, adjusted to reflect the current increased price for military fuel. TWA reiterates that its fuel consumption in DoD charter services is higher than for its overall foreign operations. The TWA contention is inconsistent with data reported by it on Form 41 for fiscal year 1967, from which have been computed the following consumption rates:

	Gallons per total aircraft hour	
	B-300B	B-300C
System	2010.2	2147.6
MAC-PAC	1992.4	2094.5

5. *Hull insurance.* The notice reversed Northwest's exclusion in its forecast of out-of-period hull insurance credits recorded in fiscal 1967 applicable to previous periods. Northwest in its comments objects to the Board's treatment, alleging there is no firm assurance that similar credits will continue in the future. It cites a loss of $3.5 million in June 1967, which will have an impact on the computation of future insurance credits and could have the effect of reducing these credits by 90 percent of the amount of the loss. Northwest is asking the Board to depart from its long-established rate-making practice of reflecting reported premium reductions against premium costs. In effect, the premium represents the carrier's maximum cost, and the net after the credit represents its true cost for that period. The facts presented by Northwest merely pose the possibility that the net rate may go up. In view of the uncertainties, we are not persuaded to depart from our established policy of reflecting actual credits against the cost of hull insurance premiums.

6. *Utilization.* Saturn, Seaboard, and TWA indicate general concern about 1969 fiscal year average daily aircraft utilization, and Continental and Northwest raise specific issues of utilization.

Seaboard points out that DoD is cutting back its projected volume 50 percent in fiscal 1969 compared with fiscal 1968. TWA anticipates that there will be significant reductions in civil air carrier augmentation and requests the Board to be prepared to make prompt adjustment for lower utilization. Saturn states that the experience of the last year shows that it is impossible to make any valid projection of utilization and suggests a scale of rates keyed to actual utilization for some immediately preceding periods.

Continental claims that a 10-hour utilization is more realistic than the 12 hours used by DoD and most carriers because of various restrictions by FAA, ALPA, and DoD on operations in South Viet-Nam, a 43 percent reduction by DoD in its fixed buy, and the greater number of aircraft being offered for DoD services in the future.

As stated in the notice, the Board departed from past costing practices and accepted utilization forecasts by carriers although somewhat lower than their fiscal 1967 experience in view of indications of a leveling off of DoD civil augmentation requirements. We believe that under current conditions the utilization prescribed in the notice is reasonable.

[2] E.g., the higher crew salaries resulting from the preference of the senior higher salaried crews for DoD assignments and payroll taxes and employee welfare costs geared to such higher salaries; also impaired crew utilization, and higher crew travel expenses.

The 10-hour utilization proposed by Continental is clearly outside the zone of reasonableness for conditions as they now exist or can be foreseen for fiscal 1969. We are aware of the sharp reduction in DoD fixed-buy, which is attributable to a change in DoD policy with the intent of minimizing trip suspensions in the event of unexpected undergeneration of traffic and is not to be construed as signaling a contraction in civil augmentation. The greater number of aircraft that will be available for DoD services imposes on carriers' management a greater responsibility to develop compensating commercial business.[3] If there is a sharp, lasting break below current levels in DoD requirements, the carriers will undoubtedly bring this to the Board's attention. The Board, of course, will make appropriate response as is required under the circumstances and facts developed at such time.

7. *Depreciation.* Continental and Northwest urge that depreciation expense on standard-jet aircraft be based on service lives of 10 years rather than the 12 years used in the notice. They argue that such aircraft are rapidly becoming obsolete for DoD operations because of the introduction of stretched-jet aircraft (DC-8-61, -63), and the soon to be introduced jumbo-jet aircraft (B-747).

The Board does not believe it appropriate to determine the useful life of aircraft in relation to DoD requirements alone, as Northwest and Continental presume. Even assuming the standard-jet equipment will find little use in DoD operations in the coming year, it does not follow that such aircraft cannot be productively used in the carriers' commercial operations for a number of years to come. On the contrary, the continued purchase of such aircraft and the depreciation bases in predominant use by the carriers themselves support the reasonableness of the 12-year life employed by the Board in the notice.

8. *Rate of return.* Continental, Eastern, and Northwest challenge the Board's continued use of a 9 percent return-on-investment factor. Their challenge is essentially based on alleged instability in the volume of DoD operations.

The Board has used a 9 percent rate of return in constructing DoD minimum rates for a number of years. The Board has been aware that the airlift requirements of DoD in recent years have been extraordinary in nature because of their relationship to events in Southeast Asia. During this period of rapidly expanding DoD requirements, the carriers have consistently achieved higher returns than the 9 percent used in constructing the minimum rates. Despite signs of leveling off of overall requirements and a substantial decline in the cargo volume during the first half of fiscal 1968, the carriers continued to achieve a return on DoD operations of better than 9 percent. Thus, it is indicated that the earnings from DoD operations have been maintained.

The Board continues to be of the view that DoD operations being performed under annual contracts guaranteeing a minimum volume at minimum rates regularly reviewed by the Board, with minimum traffic and revenues guaranteed for each flight, provide an attractive avenue for carriers to obtain supplementary business that generally contributes to their operational flexibility and financial stability. No facts have been brought to our attention which suggest that a change in that standard is in order. On the contrary, the fact that the number of carriers seeking to obtain DoD contracts continues to increase from year to year tends to bear out the Board's judgment that the 9 percent return continues to be fair.

9. *Investment base.* Continental requests that the investment base for ratemaking purposes should be modified to include equipment purchase deposits, because in order to participate in DoD commercial airlift the carriers must procure competitive aircraft that cost more and require increases in advance payments and for longer advance periods of time. TWA claims that the Board made an unwarranted and artificial adjustment in eliminating the elements listed under "other investment." TWA claims that the major portion of "other investment" elements which the Board disallowed represents deposits which are required to do business generally and are required to perform DoD business as well as other business.

Both these issues have been raised by one or more carriers in previous rate reviews. In the last review the issue of inclusion of equipment deposits in the investment base was raised by Pan American and TWA. We affirm our former conclusion to adhere to the policy adopted in 1967 for ratemaking purposes under which equipment purchase deposits would not be recognized in the current rate base.[4] Regarding the elimination of elements listed under "other investment," we adhere to our established test that only those elements are allowable for ratemaking purposes that the carrier demonstrates have material applicability to DoD charter services. This TWA has failed to do.

C. STANDARD MILEAGE

The notice proposed to eliminate the stop at Clark Air Base from the standard North Pacific routing. There was no specific objection to this proposal, and it will be adopted for turbojet aircraft. Airlift requests that the stop not be eliminated for turboprop and piston aircraft, since the operational characteristics of these aircraft make the stop necessary. Airlift's suggestion is hereby adopted and incorporated in the rule.

D. MINIMUM RATES

1. *Round-trip charters.* The following table lists the costs recognized for each carrier and aircraft for round-trip passenger and cargo charters:

[4] Regulation No. PS-32, effective May 1, 1967.

Carrier and aircraft	Round trip passenger			Round trip cargo		
	Operating cost	Return and tax	Total	Operating cost	Return and tax	Total
	Cents	*Cents*	*Cents*	*Cents*	*Cents*	*Cents*
Airlift B-707-300C DC-8F	1.47	0.28	1.75	5.37	1.24	6.61
	1.51	.27	1.78	5.57	1.19	6.76
American B-707-300C				4.93	1.12	6.05
Braniff B-707-320C	1.37	.26	1.63	4.91	1.12	6.03
Capitol DC-8F DC-8F-63	1.48	.32	1.80	5.43	1.41	6.84
	1.19	.33	1.52	4.59	1.59	6.18
Continental B-707-320C	1.32	.30	1.62	4.49	1.35	5.84
Eastern DC-8F-61	1.40	.28	1.68			
Flying Tiger B-707-320C DC-8F-63	1.57	.35	1.92	5.94	1.55	7.49
	1.36	.36	1.72	5.39	1.79	7.18
Northwest B-707-320C	1.39	.38	1.77	5.03	1.71	6.74
ONA DC-8F-55 DC-8F-63	1.51	.31	1.82			
	1.28	.30	1.58			
Pan Am B-707-300B/C	1.69	.34	2.03	6.06	1.47	7.53
Saturn B-707-320C DC-8F-61	1.57	.30	1.87	5.64	1.36	7.00
	1.31	.38	1.69	4.83	1.83	6.66
Seaboard DC-8F-55 DC-8F-63	1.56	.31	1.87	5.71	1.37	7.08
	1.32	.35	1.67	5.03	1.69	6.72
TCA DC-8F DC-8F-61	1.62	.23	1.85			
	1.35	.21	1.56			
TIA DC-8F-55 DC-8F-61	1.60	.27	1.87	6.04	1.18	7.22
	1.37	.26	1.63	5.34	1.28	6.62
TWA B-707-300B/C	1.48	.28	1.76	6.64	1.30	7.94
United DC-8F DC-8F-61				5.32	1.62	6.94
	1.22	.36	1.58			
Universal DC-8F-61	1.34	.30	1.64	5.15	1.42	6.57
World B-707-320C	1.25	.29	1.54	4.74	1.26	6.00

In determining average costs for standard and for stretched jets in the notice, we weighted the individual carrier costs by various methods, one of which was the award points assigned to each carrier and each aircraft by DoD. Some of the carriers take issue with the use of the award-point weighting.[5] Seaboard also contends that no separation of DoD award points between cargo and passenger operations should be made,

[3] The DoD requirement in the RFP's for fiscal 1969 gives notice that the carriers must demonstrate to DoD's satisfaction that at least 40 percent of prospective contractors' revenues will be from commercial services, and that this condition will be increased to 45 percent for fiscal 1970.

[5] In addition, World, while not taking issue with the Board's decision to give predominant weight to a weighting based on DoD award points, argues that the DoD mobilization index, which is reflected in the award-point weighting, assumes a too high relative productivity for stretched-jet aircraft. As to this comment, the Board believes that it should defer to DoD in the matter of determining the relative productivity of different aircraft types in meeting its mobilization requirements.

because the 1969 cargo requirement is expected to be very small.

The Board continues to be of the view that it should generally weight individual carrier results in relation to its best judgment as to what each carrier's relative participation is likely to be in fiscal 1969 awards. Since DoD represents that it will allocate its 1969 business according to award points with a cargo-passenger separation, it seems clear that an award-point weighting provides the best guide to each carrier's participation in the fiscal 1969 business. Except in the case of stretched-jet cargo operations, such a weighting also appears to produce a reasonably representative result, fair to the carriers, both individually and collectively, and to DoD. Moreover, no convincing argument has been made for the use of any alternative weighting basis.

Although the Board continues to be of the view that it should generally give predominant weight to averages based on an award-point weighting, it nevertheless must evaluate each such average in terms of whether it produces a representative result. Where such an average is heavily weighted on the basis of one carrier's results and the costs shown for that carrier are disproportionately high, the Board believes that the result of the weighted average is unlikely to be sufficiently representative. Such is the case with stretched-jet cargo results, where Flying Tiger's disproportionately high costs would unduly affect the result of a weighted average.

The notice proposed to establish uniform minimum rates for all large turbojet aircraft based on the various averages of the recognized costs. Five of the 10 stretched-jet operators oppose the proposal. They contend that separate minimum rates for standard and for stretched jets are justified by substantial differences in operating costs of the two types of aircraft and that neither DoD nor the stretched-jet operators should be deprived of the economic benefits of the more efficient stretched jet. The carriers also maintain that neither the overlapping costs of the stretched and standard jets, the range limitations of the stretched jet, nor the fact that more stretched-jet capacity will be available in fiscal 1969 justifies uniform minimum rates. They claim that circumstances this year are the same as they were last year when the Board determined to establish separate minimum rates for the two aircraft types.

Since the carriers question the Board's proposed change of policy from that adopted last year, it is appropriate to examine the action taken and the circumstances existing at that time. In Notice of Proposed Rule Making EDR-113, dated March 15, 1967 (32 F.R. 4421), we stated our general policy and proposed to follow it by establishing uniform minimum rates for stretched and standard jets:

> It has been the Board's policy to maintain rate parity among the various large turbine aircraft in order not to create a competitive imbalance among contractors and equipment * * *.
>
> As to the stretched versions of DC-8 aircraft, which apparently produce somewhat lower unit costs than the conventional jets, the stretched jets will compete with those jets already in service for similar passenger and cargo traffic in the same geographical areas. It has not been our practice to give new versions of jet aircraft a rate advantage over conventional jets already in use. It is recognized that uniform rates result in unequal returns for the various carriers, not only because of differences in their fleets but also because of differences in individual carrier costs for the same type of aircraft. However, the uniform minimum rates for jet aircraft reflect a weighting of costs based upon the participation of each aircraft in passenger and cargo charter service. In the absence of further justification from DoD or the carriers, we are not prepared for purposes of this notice to depart from our previous policy of uniformity of competitive minimum rates for large turbojet aircraft in international military passenger or cargo charter service. Nevertheless, we recognize that there have been significant changes in the financial health of all segments of the industry, and it may well be that the time has come when a differentiated minimum rate structure should be adopted that would achive better correlation between costs and rates without destructive impact on the carriers involved. In these circumstances, we will give thorough consideration to data and arguments on the question of separate minimum rates for stretched jets before we make our final determination on this issue.

We proposed at the same time to set separate cargo minimum rates for turboprop aircraft not only because of cost differences but because "in the present world situation the turboprops, like the piston aircraft, will continue to be used even at rates higher than those applicable to turbojets."

In adopting the final minimum rates, we determined to depart from our previous policy and set separate minimum rates for the stretched jet for the following reasons:[6]

> As calculated in the notice, the projected average costs for DoD operations using large jet aircraft reflected approximately a 12 percent weighting for DC-8-61 aircraft. In other words, it was assumed that the DC-8-61 participation in DoD charters using large turbojet aircraft would approximate 12 percent, and this assumption was based in large measure on the expectation that the manufacturer's delivery dates scheduled at that time would be met. It now appears to be questionable whether a reliable delivery schedule can be projected at this time, and therefore the extent of DC-8-61 participation in the fiscal 1968 DoD program is largely a matter of conjecture. In these circumstances, the Board has determined that, in fairness to all concerned, it should set a separate rate for the so-called "stretched jets." By doing so, the DC-8-61 operations should return their full costs just as the B-707 and DC-8F operations should; and DoD will have the benefits of the lower DC-8-61 unit costs to the extent of their actual participation in the program.

It is obvious that the circumstances that existed in May of 1967 no longer obtain. The carriers themselves have brought to our attention procurement and capacity changes indicating that the seller's market of a year ago is now a buyer's market. As we pointed out in the notice this year, in contrast to the minor participation of stretched jets in fiscal 1968, it appears that in fiscal 1969 stretched-jet capacity will be available in sufficient quantity to perform a much larger portion of DoD's charter requirement. This being so, and the cost and operating data indicating comparable characteristics for the two aircraft types, it is our judgment that our policy of maintaining uniform minimum rates for competitive aircraft should be adhered to. Otherwise, the standard-jet operators, whose equipment is competitive in all significant respects with the stretched jet, would be noncompetitive in terms of price.

As a practical matter, it is unlikely that in the present circumstances separate minimum rates could be maintained. The interest of some stretched-jet operators in the establishment of lower minimum rates for those aircraft is, of course, that they would thereby acquire a practical monopoly of DoD charter procurement. On the other hand, the interest of those standard-jet operators favoring uniform minimum rates is to assure continued participation in this business. In a normal competitive situation, the operator of the more efficient aircraft would have an incentive to offer his services at a lower rate in order to obtain more business, and the competitor with less efficient aircraft would be forced to lower his rate to meet the competition. During the years that the Board has regulated minimum rates for military services, it has in a sense interfered with the normal competitive process in the public interest, and both the carriers and the Government have derived benefits from this regulation. If we should in a situation like the present abandon the policy of uniform minimum rates for competitive services and set a lower rate for the stretched jet, the standard-jet operators would be compelled to meet that rate in order to compete; and a uniform minimum rate at the stretched-jet level would result. Such a rate would not be fair and reasonable for the majority of the carriers, who operate standard jets, nor for these aircraft in general, which account for three-fourths of current capability.

It is our view that the real question is not whether the minimum rates should be uniform but what the level of the uniform rates should be. In other words, we believe it is appropriate to consider the individual costs of all the carriers and all the jet aircraft, the range of these costs, and various averages and weightings in order to arrive at minimum rates that are fair and reasonable in the circumstances. As we have indicated in the Notice, the individual carrier costs vary not only for different aircraft but also for the same aircraft, whether standard or stretched jet, operated by different carriers. Although the standard jets generally are in the upper half of the operating-cost range and the stretched jets generally in the lower half, a number of standard jets

[6] ER-494, effective June 1, 1967 (32 F.R. 7901).

have operating costs equal to or lower than those of some of the stretched jets. Looking at various average costs for the two aircraft types separately, we stated in the notice that, if we were proposing separate minimum rates, round-trip minimum rates producing yields of 1.62 and 1.74 cents per passenger-mile and 6.65 and 6.85 cents per ton-mile would be appropriate for stretched and standard jets, respectively. We then proposed to adjust these figures to reflect mileage absorption by the two aircraft types and to give equal weight to each type in arriving at uniform minimum rates.

Four standard-jet operators and DoD objected to the proposed equal weighting. DoD states that the capacity of the stretched jets plus that of the low-cost standard-jet operators would be sufficient to perform virtually the total DoD requirements for fiscal 1969. Since DoD proposes to use a cost-incentive index in its procurement program, it contends that uniform minimum rates should be based predominantly on the costs of the stretched jets and the low-cost standard jets, although all the standard-jet operators will apparently participate to some extent in this program. On the other hand, the standard-jet carriers contend that more weight should be given to standard-jet costs in determining the uniform minimum rates. Three of the carriers suggest that the costs should be weighted in accordance with the relative DoD award points assigned to each aircraft type, 75 percent for standard and 25 percent for stretched jets, since DoD represents that award points will be the basis for allocating business in fiscal 1969. The other carrier suggests a weighting related to aircraft allocation in the CRAF fleet, or 80 percent for standard and 20 percent for stretched jets.

Considering the comments of both the carriers and DoD, we have determined to adhere to the proposed 50–50 weighting for stretched- and standard-jet costs in establishing uniform minimum rates. For a number of years, in the interest of maintaining a broad mobilization base, DoD has followed a policy of procuring airlift from all CRAF carriers providing similar equipment at competitive prices and has required that the carriers not be unduly dependent financially on DoD charter procurement. This being so, the basis for ratemaking should include the costs of all the carriers providing similar services and not just the costs of the lower-cost operators, even though the latter might theoretically be capable of meeting all of DoD's charter requirements. The minimum rates must be reasonable for the carriers who actually perform charter services, and giving predominant weight to the low-cost aircraft would produce minimum rates that would not be reasonable for the bulk of the CRAF carriers. Nevertheless, DoD is entitled to derive some benefit in the minimum rates from the fact that the lower-cost capacity is available to meet its needs; and, by the same token, it is not unreasonable to require that standard-jet operators accept a lower weighting in return for the benefits of the uniform rates for both equipment types. Therefore, we believe it would be inappropriate to rely solely on the award-point allocation or CRAF participation of the two aircraft types, as urged by the carriers. Since either the standard or the stretched jets may have sufficient capability to perform the preponderance of DoD charter requirements in fiscal 1969, it is our judgment that a fair result is produced by giving half weight to the costs of each aircraft type.

DoD also objected to the proposed adjustment to the average costs to take account of mileage absorption in establishing the minimum rates required to produce a fair yield to the carriers. DoD contends that the adjustment does not relate to operating costs but merely inflates the revenue received by the carriers. DoD has apparently misunderstood the purpose and effect of the proposed adjustment. The carriers' costs per mile are necessarily based upon the costs actually incurred divided by the miles actually flown, whereas the rate paid per mile is based upon a shorter mileage. The proposed adjustment to the average costs would not result in payment for miles not flown, as suggested by DoD, but would correct the disparity between the two mileage bases so that, as a minimum, the rates would yield weighted average costs to the carriers. It is the yield produced by the rate rather than the rate itself that must be compared with the carriers' costs per mile in order to determine whether the rate is reasonable.

However, both DoD and some of the carriers have raised pertinent questions as to the appropriate amount of the adjustment. On the one hand, several carriers noted an arithmetic error that would result in a greater upward adjustment of stretched-jet costs. On the other hand, both DoD and some of the carriers pointed out that the apparent range limitations of the DC–8–61 aircraft will not apply to the DC–8–63 aircraft, which have range characteristics comparable to standard-jet aircraft; and therefore the mileage adjustment should be less for the stretched jets than that based on consideration of the DC–8–61 alone. According to DoD, by the end of fiscal 1969, 60 percent of the stretched-jet fleet will be the 63-series aircraft, and the 63-series will account for 42.3 percent of the aircraft months in fiscal 1969. If the percentages of aircraft months attributable to the DC–8–61 and DC–8–63 aircraft are applied to the 8 percent and 3 percent mileage-absorption factors calculated in Appendix F of the notice, respectively, a weighted average mileage correction factor of 6 percent results for the stretched jets.

Giving effect to a 6-percent mileage absorption for stretched jets and 3 percent for standard jets, and giving equal weight to the two aircraft types, we have determined to adopt uniform minimum rates for round-trip passenger and cargo charters of 1.75 cents per passenger-mile and 7.06 cents per ton-mile, respectively. The rates will produce average yields of 1.65 cents per passenger-mile and 6.64 cents per ton-mile for the stretched jets and 1.70 cents per passenger-mile and 6.85 cents per ton-mile for the standard jets.

2. *One-way charters.* The notice proposed to establish minimum rates for one-way charters by the same method we used in the rate review conducted last year. A cost-saving factor of 11 percent for return empty backhauls of one-way passenger charters was employed, along with factors for commercial revenue backhauls of 10 percent for one-way passenger and 1 percent for one-way cargo charters based on fiscal 1967 experience.

Seaboard's comments indicate a misunderstanding of the method used to compute one-way cargo minimum rates. Last year we determined not to reflect a cost-saving factor for cargo return empty backhauls in the one-way rate, and the notice proposed to adhere to that determination. Although DoD urges that the cost-saving factor for one-way cargo charters be reinstated, we see no basis for departing from the method adopted last year.

The minimum rates for one-way passenger and cargo charters we are adopting are 3.15 cents per passenger-mile and 14.05 cents per ton-mile, respectively.

3. *Mixed and convertible charters.* Minimum rates for mixed charters have been computed on the same basis as in previous rate reviews. The convertible minimum rates adopted are averages of such rates calculated for regular and for stretched jets.

II. Category B Minimum Rates for Small Turbine Aircraft

World's objection to the B–727 rates in the notice relates only to the Board's conversion of round-trip costs to one-way minimum rates using a 10 percent commercial revenue factor for passengers and 1 percent for cargo, which are the same as those used for long-range aircraft. World points out that the B–727 is operated for DoD to destinations that are geographically remote or involve Fifth Freedom services for which World and most carriers lack CAB authority. On the grounds that the likelihood for realizing commercial backhauls is very improbable, World requests that the backhaul adjustment be eliminated in the construction of B–727 rates.

In view of the distinctions pointed out by World from the long-range aircraft operations, which it appears make the possibility for commercial backhauls very remote for the B–727, we have eliminated the commercial backhaul factors in constructing the one-way B–727 passenger and cargo minimum rates.

Braniff claims that the uniform minimum rates proposed in the notice for B–727 operations are uneconomic. It claims that the pecularities of its B–727 operation between McGuire and Canada, Greenland, or Iceland, and between Charleston AFB, S.C., and Puerto Rico or Panama, entail reduced utilization for the Artic routes similar to limitations on B–727 utilization recognized

in the notice for Alaska and necessitate 578 nonpaid ferry miles between McGuire and Charleston whenever DoD commitments require a change from one area to the other. Braniff urges establishment of final B-727 minimum rates that allow for the peculiarities of its DoD operations. The carrier concludes that, its system earnings being inadequate, it cannot afford to provide B-727 aircraft to DoD at the uneconomic rates contained in the notice.

The notice proposed B-727 round-trip rates for passengers of 2.40 cents per passenger-mile and for cargo of 12.15 cents per ton-mile, which are well under Braniff's adjusted cost of 2.77 cents and 13.16 cents, respectively. Braniff is the only carrier that filed comments objecting to the B-727 rate levels. Although Alaska Airlines did not file comments, the carrier at the informal technical conferences held preceding issuance of the notice indicated the desirability of separate B-727 minimum rates for its operation.[7]

The forecast costs per passenger-mile for the carriers having B-727 experience in DoD charter operations are 2.77 cents for Braniff, 2.57 cents for Alaska, 2.44 cents for Southern, and 2.22 cents for World. These data are consistent with the claims and supporting facts presented by Braniff and Alaska that their costs in DoD services are inflated by operational and geographical problems not encountered by World and Southern in their Pacific interisland DoD charters. Accordingly, we have decided to establish separate B-727 minimum rates for Pacific interisland routes and for all other routes, respectively. Thus, the Pacific interisland carriers will not enjoy a windfall, while the other carriers will receive fair and adequate compensation commensurate with their different route experience.

Based upon DoD award points, the weighted average adjusted passenger cost of Airlift, Alaska, Braniff, and TIA is 2.48 cents per passenger-mile; on the basis of revenues from DoD services in the first half of fiscal 1968, the weighted average is 2.53 cents. For Southern and World the weighted averages are 2.29 cents and 2.33 cents, respectively.

The respective weighted averages for cargo services for Alaska, Braniff, and TIA are 12.91 cents per ton-mile based on DoD award points and 13.06 cents based on revenues,[8] and for Southern and World the averages are 11.66 cents and 11.71 cents per ton-mile.

In consideration of the foregoing we adopt the following round-trip charter minimum rates:

	Passenger, per passenger-mile	Cargo, per ton-mile
	(*Cents*)	(*Cents*)
Pacific interisland	2.30	11.70
All other	2.50	13.00

[7] Appendixes C and D of the notice, detailing the cost forecasts of the B-727 carriers, are incorporated herein by reference.

[8] Airlift, as in the notice, is not reflected in the cargo averages.

Subsequent to the notice, by letter dated March 21, 1968, Modern Air Transport, Inc., submitted cost data and related comments for the purpose of supporting establishment of a minimum rate for the CV-990 jet aircraft it proposes to offer DoD on a contract basis for fiscal 1969. A revision correcting a mechanical error in the cost data was submitted April 2. Modern has indicated that it is seeking CRAF eligibility.

Cost experience for CV-990 operations in DoD-type services is not available. However, the available data indicate that it is appropriate to include the CV-990 with the B-727 and CV-880 jets. Accordingly, we will expand the B-727/CV-880 rates to include the CV-990 and amend § 288.8 to include the CV-990 at the same minimum aircraft loads as provided therein for the CV-880.

Since the amendments setting minimum rates for the CV-990 and establishing separate minimum rates for two areas where small turbine aircraft are operated in Category B charter service were not proposed in the notice, express provision is hereby made, pursuant to § 302.38(d) of the procedural regulations, for the filing of petitions for reconsideration of the CV-990 rate level and the geographical difference in minimum rates for small turbine aircraft. Such petitions and answers thereto shall be governed by the provisions of § 302.37 and shall be served on DoD and the small-turbine carriers. Petitions must be filed within 10 days after the date of service of this rule and answers within 7 days after petitions are filed.

III. Category B Minimum Suspension Charge

With respect to the suspension charge proposed in the notice, comments were filed by Braniff, Northwest, Pan American, Saturn, TWA, Universal, and DoD. Among the carriers, only Northwest objected to the amount of the charge, and the remainder merely contended that the Board should specify terms under which the charge would become payable. DoD merely suggests the clarification of certain language.

The Board has decided to finalize the suspension charge as proposed in the notice. The Board will not, at this time, specify terms relative to the payment of the suspension charge other than those in the contract. The contract has, for a number of years, set forth the terms under which DoD might become liable to a carrier for suspension. None of the carriers have made a sufficient showing that these terms are unfair or have been applied to their economic detriment, and the Board does not believe that it should intervene in the contracting process in this regard without such a showing.

The Board further finds that Northwest has failed to demonstrate that the charge proposed in the notice is inadequate. In addition, the Board does not believe that the language of the rule requires clarification as suggested by DoD, since the suspension charge is to be paid in accordance with the terms and conditions of the contract.

IV. Individual Military Transportation

The notice proposed to incorporate in Part 288 blanket exemptions from section 403 of the Act for Category A and X individually ticketed and waybilled transportation that had previously been granted by Board order, to continue to equate the minimum rates for Category A and Z individually ticketed transportation with the Category B one-way minimum rate, and to eliminate the requirement that Category X passengers or cargo be carried only in planeload lots at the Category B round-trip minimum rates. Comments were filed by Northwest, Pan American, TWA, and DoD. Upon consideration of the comments, we have determined to adopt the amendments as proposed.

We will deny Northwest's request that tariffs be required for Category A traffic. The carrier's allegation that DoD and the carriers have difficulties in agreeing on conditions of carriage for this traffic would appear to be a matter for negotiation between the contracting parties.

As to the proposed level of Category A and Z minimum rates, TWA contends that the rates should be higher than Category B one-way rates, and DoD argues that the Category A passenger rate should be equal to the Category B round-trip minimum rate. We are not persuaded by the arguments, which do not present any questions that have not been considered by the Board previously in determining the level of these minimum rates. Nor do we believe that there is any basis for acceding to Pan American's request that separate higher minimum rates be established for Category A cargo carried in combination flights.

Northwest and TWA oppose removal of the planeload requirement for the carriage of Category X traffic at the Category B round-trip minimum rate. However, during the past 2 years the major carriers of this traffic have requested and been granted exemptions from the planeload requirement, and there is no reason to believe that relieving the carriers from the requirement for the future will pose any economic threat.

Pan American requests that the construction rules now applicable to Category A traffic[9] also apply to Category X and Z traffic. These rules, as they apply to passengers, are already applicable to Category Z scheduled transportation and are incorporated in the amended Part 399 being issued concurrently herewith. However, the construction principles have not previously been applicable to Category X traffic, and Pan American has not given any reason why they should be. Category X passengers and cargo have not been treated as individually ticketed or waybilled traffic carried on scheduled flights. The fact that we have permitted the carriers to transport this traffic in less than planeload lots for their own convenience does not alter its

[9] These rules, set out in § 288.7(d) (3) through (6), specify the mileage basis for applying the Category A minimum rates, add-ons to the minimum cargo rates for pickup at military bases, and standard pallet weight.

essential character nor increase transportation costs, and there is no reason to require payment for its carriage higher than would be applicable to Category B round-trip traffic.

V. EFFECTIVE DATE

Eight carriers responded to the request in the notice that the parties present their views as to the appropriate effective date for the revised minimum rates. One of the carriers proposes that the effective date be the date of the notice, February 20, 1968; one favors an immediate or a retroactive effective date for the stretched-jet minimum rates to account for past mileage absorption; and a third suggests that the new minimums not be put into effect until October 1968, because the stretched jets are still in a relatively early stage of delivery. The remaining five carriers commenting on the subject favor an effective date at the beginning of the new fiscal year, July 1, 1968.

We shall adopt the effective date for the amendments of July 1, 1968. No persuasive reasons have been advanced for adopting an earlier or a later date; and, as we stated in the notice, the revisions of the Category B minimum rates entail a change in the rate structure and relate to circumstances pertaining for the most part to fiscal year 1969.

Continental's request for an oral hearing is denied. Each carrier's comments have been thoroughly considered, and each carrier has previously been given an opportunity to meet with the Board's staff to discuss questions with respect to its cost forecasts. In our opinion, further oral hearing is unnecessary.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 288 of the Economic Regulations (14 CFR Part 288), effective July 1, 1968, as follows:

1. Change the title of Part 288 to read as set forth above.

§ 288.1 [Amended]

2. In § 288.1, insert the following between the definition of "air carrier" and the definition of "charter service":

"Category A transportation" means the transportation in scheduled service of individually ticketed passengers or individually waybilled cargo in foreign and overseas air transportation and in air transportation between the 48 contiguous States on the one hand and Hawaii or Alaska on the other hand, pursuant to contract with DoD.

"Category X transportation" means the transportation of persons or property inbound to the continental United States in fixed proportion to Category A cargo outbound from the continental United States pursuant to the option provisions of DoD contracts.

3. Replace the paragraph containing the definition of "substitute service" in § 288.1 with the following:

"Substitute service" means the performance by an air carrier of air transportation in planeload lots pursuant to an agreement with another air carrier to fulfill such other air carrier's contractual obligation to perform such air transportation for DoD.

"Suspension charge" means the minimum amount to be paid by DoD to an air carrier, pursuant to terms and conditions of the contract between the carrier and DoD, when a contract charter flight (other than a Logair or Quicktrans flight) is suspended by DoD.

All terms defined in the Act and not otherwise defined in this part are used in the sense of their statutory definitions.

4. Amend § 288.2 to read as follows:

§ 288.2 Applicability.

This part applies to charter service, substitute service, and Category A and X transportation by air carriers that have contractually committed their CRAF aircraft to DoD.

5. Amend § 288.6 to read as follows:

§ 288.6 Scope of exemption.

The exemption granted in § 288.5 extends only to transportation of persons and/or property under agreements with DoD for charter service and for Category A and X transportation for which minimum-rate conditions are prescribed in this part and to substitute service. This authority is in addition to all other authority to engage in air transportation issued by the Board to any air carrier and will not be construed as in any manner limiting such other authority.

6. Amend § 288.7 to read as follows:

§ 288.7 Reasonable level of compensation.

* * * * *

(a) For charter service in foreign and overseas transportation, in transportation between the 48 contiguous States on the one hand and Hawaii or Alaska on the other hand, and in transportation within Alaska, other than specified in paragraph (c) of this section:

(1) Performed with turbine-powered aircraft:

Aircraft type	Passengers, per passenger-mile		Cargo, per ton-mile		Convertible		Mixed passenger-cargo, per revenue plane-mile			
							Roundtrip		One way	
	Round-trip	One way	Round-trip	One way	Passenger leg, per passenger-mile	Cargo leg, per ton-mile	Variable	Fixed	Variable	Fixed
	Cents	*Cents*	*Cents*	*Cents*	*Cents*	*Cents*	*Dollars*	*Dollars*	*Dollars*	*Dollars*
Turboprops:										
CL-44	2.00	3.60	9.36	17.19	2.15	10.67				
L-382			10.05	19.64						
Regular turbojets	1.75	3.15	7.06	14.05	1.89	8.25				
Passengers-pallets:										
165 and 0							3.12	2.89	5.45	5.20
117 and 3							3.02	2.80	5.42	5.18
105 and 4							3.00	2.78	5.42	5.17
93 and 5							2.97	2.75	5.41	5.17
81 and 6							2.95	2.73	5.41	5.16
63 and 7							2.91	2.70	5.40	5.16
51 and 8							2.89	2.67	5.39	5.15
0 and 12							2.78	2.58	5.37	5.13
DC-8F-61, -63	1.75	3.15	7.06	14.05	1.89	8.25				
Passengers-pallets:										
219 and 0							4.14	3.83	7.18	6.90
159 and 5							3.97	3.66	7.02	6.74
65 and 12							3.69	3.37	6.78	6.49
47 and 13							3.64	3.32	6.73	6.45
0 and 18							3.51	3.18	6.60	6.32
B-727, CV-880, CV-990, Pacific inter-island	2.30	4.35	11.70	23.40	2.54	14.28				
Passengers-pallets:										
105 and 0							2.67	2.42	4.82	4.57
61 and 2							2.54	2.29	4.67	4.42
50 and 3							2.50	2.25	4.63	4.38
46 and 4							2.49	2.24	4.62	4.37
0 and 7							2.36	2.11	4.46	4.21
B-727, CV-880, CV-990, all other	2.50	4.73	13.00	26.00	2.74	15.70				
Passengers-pallets:										
105 and 0							2.88	2.63	5.22	4.97
61 and 2							2.76	2.51	5.10	4.85
50 and 3							2.73	2.48	5.07	4.82
46 and 4							2.72	2.47	5.06	4.81
0 and 7							2.59	2.34	4.93	4.68

* * * * *

(d) For Category A transportation:

(1) Passengers, 3.15 cents per passenger-mile.

(2) Cargo: Outbound, 12 cents per ton-mile; and inbound, 10 cents per ton-mile.

(3) The foregoing rates per passenger-mile and per ton-mile shall be applied to the shortest mileage between the commercial air-carrier points as set forth in the current IATA Mileage Manual to compute point-to-point passenger fares and cargo rates per pound.

(4) For cargo services to/from military bases in the United States, the rates per pound computed in accordance with subparagraph (3) of this paragraph shall be increased in the following amounts:

Certificated terminal point	Air force base	Add-on per pound	
		Air pickup	Truck pickup
		Cents	*Cents*
New York	McGuire	2	1
	Dover	3	2
San Francisco	Travis	2	1

(5) For cargo services to/from military bases outside the United States, the rates per pound shall not be less than the rates to/from the nearest commercial point, computed in accordance with subparagraphs (2) and (3) of this paragraph.

(6) The cargo charges determined in accordance with subparagraphs (2) through (5) of this paragraph shall be applied on the basis of a standard weight per pallet of 4,500 pounds: *Provided*, That it is not required that cargo be tendered in pallets.

(e) For Category X transportation, 1.75 cents per passenger-mile and 7.06 cents per cargo ton-mile.

(f) For suspension charges, 36 percent of the charge based on the passenger charter minimum rate and 38 percent of the charge based on the cargo charter minimum rate otherwise applicable to the suspended flight.

§ 288.8 [Amended]

7. Replace the table in § 288.8 with the following:

Aircraft type	Number of passengers, all-passenger and convertible flights	Tons of cargo	
		All-cargo flights	Convertible flights
B-707-320-B/C	165	36.5	33.7
B-707-300 series	159		
B-707-138B	137		
B-707-100 series (other)	149		
DC-8F-61, -63	219	45	42.5
DC-8F	165	36.5	33.7
DC-8 (50 series)	149		
DC-8 (other)	147		
B-727	105	18	16.5
CV-880	110	18	16.5
CV-990	110		
CL-44	148	29.35	28
L-382		20.7	
L-1649A	95	18	15
L-1049-C/E/G/H	95	18	15
DC-7B/C/CF/F	95	18	15
L-1049A	88	15	12
DC-7	88	15	12
DC-6-A/B/C	83	13	12
DC-4	60	8	6

8. Replace § 288.10(b) with the following:

§ 288.10 Computation of passenger-miles and cargo ton-miles.

* * * * *

(b) *Pacific services*. In the case of Pacific services between points specified in the following table, the mileage shall be computed via the indicated routings:

Between	And									
	Thailand	South Viet-Nam	Philippine Islands	Guam	Wake	Hawaii	Formosa	Okinawa	Japan [2]	Alaska
U.S. west coast [1]	7 or 4	7 or 4	6 or 4	6	5	1	12 or 4	6 or 4	6 or 2	1
Alaska	3	3	3				3	3	1	
Japan	1	1	1	1	1	8	1	1		
Okinawa	1	1	1	1	1	8	1			
Formosa	1	1	1	1	10	9				
Hawaii	11	11	8	8	1					
Wake	1	1	1	1						
Guam	1	1	1							
Philippine Islands	1	1								
South Viet-Nam	1									

ROUTINGS

1. Direct.[3]
2. Via Anchorage.
3. Via Yokota.[4]
4. Via Anchorage-Yokota.[5]
5. Via Honolulu.
6. Via Honolulu-Wake.
7. Via Honolulu-Wake-Clark.
8. Via Wake.
9. Via Wake-Guam.
10. Via Guam.
11. Via Wake-Clark.
12. Via Honolulu-Wake-Guam.

NOTE: Alternative routings 6, 7, and 12 are to be used for calculation of the mileage if DoD requires that an intermediate point along the mid-Pacific route be served.

[1] Any place in the State of California, Oregon, or Washington.
[2] For services to and from Japan, compute mileage to and from Yokota Air Base.
[3] For turboprop and piston aircraft, via Clark.
[4] For turboprop and piston aircraft, via Yokota-Clark.
[5] For turboprop and piston aircraft, via Anchorage-Yokota-Clark.

* * * * * * * *

9. Amend paragraph (a) of § 288.18 to read as follows:

§ 288.18 Expiration.

(a) This part shall expire June 30, 1969, unless rescinded by the Board at an earlier date. The Board reserves the right to rescind this part or any provision thereof at any time, with or without notice or hearing, as the public interest may require.

(Secs. 204, 403, and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758, 771, as amended; 49 U.S.C. 1324, 1373, 1386)

Effective: July 1, 1968.

Adopted: April 28, 1968.

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART, *Acting Secretary*.

[F.R. Doc. 68-5156; Filed, Apr. 30, 1968; 8:45 a.m.]

SUBCHAPTER F—POLICY STATEMENTS

[Regulation No. PS-36]

PART 399—STATEMENTS OF GENERAL POLICY

Miscellaneous Amendments

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. (25th day of April 1968.)

On February 20, 1968, by notice of proposed rule making EDR-133/PSDR-20 (33 F.R. 3645), the Board proposed to amend Part 399, Statements of General Policy, by changing the minimum rate for Category Z individually ticketed military transportation and by moving the minimum-rate conditions for Category A and X individually ticketed and waybilled military transportation from Part 399 to Part 288 of the economic regulations.

Written data, views, and arguments have been filed in response to the notice by Northwest Airlines, Inc., Pan American World Airways, Inc., Trans World Airlines, Inc., and the Department of Defense. These comments are discussed in connection with the comments submitted by the same persons in ER-536 amending Part 288, which is being issued concurrently herewith. For the reasons set forth therein, which are incorporated herein by reference, we are adopting the amendments to Part 399 as proposed.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 399, Statements of General Policy (14 CFR Part 399), effective July 1, 1968, as follows:

1. Add a new paragraph (b) to § 399.16 and delete paragraphs (c), (d), and (e) to read as follows:

§ 399.16 Military exemptions.

* * * * *

(b) The minimum charges considered fair and reasonable for the transportation of Category Z individually ticketed passengers in foreign and overseas air transportation and in air transportation between the 48 contiguous States on the one hand and Hawaii or Alaska on the other hand will be 3.15 cents per passenger-mile, applied to the shortest mileage between the commercial air-carrier points as set forth in the current IATA Mileage Manual to compute point-to-point passenger fares.

(c) [Deleted]
(d) [Deleted]
(e) [Deleted]

3. Amend § 399.38 to read as follows:

§ 399.38 Military tariff rates.

In passing upon the lawfulness of tariffs specifying fares for the transportation of individually ticketed military passengers in foreign or overseas air transportation or in air transportation between the 48 contiguous States on the one hand and Hawaii or Alaska on the

other hand, the Board will give great weight to the level of fares computed in accordance with § 399.16(b).

(Secs. 204, 403, and 404 of the Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758, 760, as amended; 49 U.S.C. 1324, 1373, 1374; and 5 U.S.C. 552, 80 Stat. 383)

Effective: July 1, 1968.

Adopted: April 25, 1968.

By the Civil Aeronautics Board.

MABEL MCCART,
Acting Secretary.

[F.R. Doc. 68-5157; Filed, Apr. 30, 1968; 8:45 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 31—NONALCOHOLIC BEVERAGES

Soda Water, Identity Standard; Confirmation of Effective Date of Order Listing Quillaia as an Optional Foaming Agent

In the matter of amending the definition and standard of identity for soda water (21 CFR 31.1) to provide for the use of quillaia (*Quillaja saponaria* Mol.) as an optional foaming agent:

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341 371) and in accordance with the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections were filed to the order in the above-identified matter published in the FEDERAL REGISTER of March 2, 1968 (33 F.R. 4098). Accordingly, the amendment promulgated by that order will become effective May 1, 1968.

(Secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371)

Dated: April 23, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-5218; Filed, Apr. 30, 1968; 8:48 a.m.]

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Subpart A—Definitions and Interpretative Regulations

PESTICIDE TOLERANCES REGARDING MILK, EGGS, MEAT, AND/OR POULTRY; STATEMENT OF POLICY

No adverse comments were received in response to the notice published in the FEDERAL REGISTER of February 28, 1968 (33 F.R. 3438), proposing the issuance of a statement of policy on pesticide tolerances regarding milk, eggs, meat, and/or poultry. The Commissioner of Food and Drugs concludes that the policy statement should be adopted as proposed.

Accordingly, under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 408, 701(a), 52 Stat. 1055, 68 Stat. 511 et seq.; 21 U.S.C. 346a, 371(a)) and delegated to the Commissioner (21 CFR 2.120), a new section is added to Part 120 as set forth below.

(Secs. 408, 701(a), 52 Stat. 1055, 68 Stat. 511 et seq.; 21 U.S.C. 346a, 371(a))

Dated: April 22, 1968.

WINTON B. RANKIN,
Deputy Commissioner of Food and Drugs.

The following new section is added to Subpart A of Part 120:

§ 120.6 Pesticide tolerances regarding milk, eggs, meat, and/or poultry; statement of policy.

(a) When establishing tolerances for pesticide residues in or on raw agricultural commodities, consideration is always given to possible residues of those pesticide chemicals or their conversion products entering the diet of man through the ingestion of milk, eggs, meat, and/or poultry produced by animals fed agricultural products bearing such pesticide residues. In each instance an evaluation of all available data will result in a conclusion either:

(1) That finite residues will actually be incurred in these foods from feed use of the raw agricultural commodity including its byproducts; or

(2) That it is not possible to establish with certainty whether finite residues will be incurred, but there is a reasonable expectation of finite residues; or

(3) That it is not possible to establish with certainty whether finite residues will be incurred, but there is no reasonable expectation of finite residues.

(b) When the data show that finite residues will actually be incurred in milk, eggs, meat, and/or poultry, a tolerance will be established on the raw agricultural commodity used as feed provided that tolerances can be established at the same time, on the basis of the toxocological and other data available, for the finite residues incurred in milk, eggs, meat, and/or poultry. When it is not possible to determine with certainty whether finite residues will be incurred in milk, eggs, meat, and/or poultry but there is a reasonable expectation of finite residues in light of data reflecting exaggerated pesticide levels in feeding studies, a tolerance will be established on the raw agricultural commodity provided that appropriate tolerances can be established at the same time, on the basis of the toxicological and other data available, for the finite residues likely to be incurred in these foods through the feed use of the raw agricultural commodity or its byproducts. When it is not possible to determine with certainty whether finite residues will be incurred in milk, eggs, meat, and/or poultry but there is no reasonable expectation of finite residues in light of data such as those reflecting exaggerated pesticide levels in feeding studies and those elucidating the biochemistry of the pesticide chemical in the animal, a tolerance may be established on the raw agricultural commodity without the necessity of a tolerance on food products derived from the animal.

(c) The principles outlined in paragraphs (a) and (b) of this section will also be followed with respect to tolerances for residues which will actually be incurred or are reasonably to be expected in milk, eggs, meat, and/or poultry by the use of pesticides directly on the animal or administered purposely in the feed or drinking water.

(d) Tolerances contemplated by paragraphs (a) and (b) of this section will in addition to toxicological considerations be conditioned on the availability of a practicable analytical method to determine the pesticide residue; that is, the method must be sensitive and reliable at the tolerance level or in special cases at a higher level where such level is deemed satisfactory and safe in light of the toxicity of the pesticide residue and of the unlikelihood of such residue exceeding the tolerance. The analytical methods to be used for enforcement purposes will be those set forth in the "Pesticide Analytical Manual" (see § 120.101 (c)). The sensitivities of these methods are expressed in that manual.

[F.R. Doc. 68-5219; Filed, Apr. 30, 1968; 8:48 a.m.]

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Diuron

A petition (PP 8F0662) was filed with the Food and Drug Administration by the E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898, proposing the establishment of tolerances for residues of the herbicide diuron (3-(3,4-dichlorophenyl)-1,1-dimethylurea) in or on the raw agricultural commodities peppermint hay at 2 parts per million and nuts at 0.1 part per million.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which the tolerances are being established.

Based on consideration given the data submitted in the petition, and other relevant material, the Commissioner of Food and Drugs concludes that the tolerances established by this order will protect the public health. Therefore, by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 364a(d)(2)) and delegated to the Commissioner (21 CFR 2.120), § 120.106 is amended to establish the subject tolerances by revising the second paragraph and adding a new final paragraph, as follows:

§ 120.106 Diuron; tolerances for residues.

* * * * *

2 parts per million in or on alfalfa; corn fodder or forage (including sweet corn, field corn, and popcorn); grass crops (other than Bermudagrass); grass hay (other than Bermudagrass hay); hay, forage, and straw of barley, oats, rye, and wheat; hay and forage of birdsfoot trefoil, clover, peas, and vetch; peppermint hay, sorghum fodder and forage.

* * * * *

0.1 part per million (negligible residue) in or on nuts.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a (d)(2))

Dated: April 23, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-5223; Filed, Apr. 30, 1968; 8:48 a.m.]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

DIETHYLAMINOETHANOL

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 3A1157) filed by Pennsalt Chemicals Corp., Three Penn Center, Philadelphia, Pa. 19102, and other relevant material, has concluded that the food additive regulations should be amended to provide for the safe use of diethylaminoethanol as a boiler water additive in the preparation of steam that will contact food. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 121.1088(d) is amended by alphabetically inserting in the list a new item, as follows:

§ 121.1088 Boiler water additives.

* * * * *

(d) Substances used alone or in combination with substances in paragraph (c) of this section:

	Limitations
* * *	* * *
Diethylaminoethanol	Not to exceed 15 parts per million in steam, and excluding use of such steam in contact with milk and milk products.
* * *	* * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: April 23, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-5220; Filed, Apr. 30, 1968; 8:48 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development

PART 51—LOAN AND GRANT ASSISTANCE FOR PLANNING HOUSING PROJECTS IN APPALACHIA

In Subtitle A a new Part 51 is added as follows:

Sec.
51.1 Statement of applicable law and scope of planning assistance.
51.3 Delegation from Secretary to Assistant Secretary—Federal Housing Commissioner.
51.5 Definitions.
51.7 Scope of assistance.
51.10 Location of proposed project.
51.13 Filing, processing and approving applications.
51.15 Eligible applicants.
51.17 Use of loan or grant proceeds.
51.20 Maximum amount of loan.
51.23 Maximum amount of grant.
51.25 Waiver of repayment.
51.27 Maturity of loans—contract provisions.
51.30 Interest on loans.

AUTHORITY: The provisions of this Part 51 issued under sec. 207, 81 Stat. 257; 40 U.S.C. App. 207.

§ 51.1 Statement of applicable law and scope of planning assistance.

Section 207 of the Appalachian Regional Development Act of 1965, added by section 112 of the Appalachian Regional Development Act Amendments of 1967, authorizes the Secretary of Housing and Urban Development to make loans and grants, under such terms and conditions as he may prescribe, to nonprofit, limited dividend, or cooperative organizations, or to public bodies, for expenses of planning a housing construction or rehabilitation project and for obtaining the financing of such project by an insured mortgage under section 221 of the National Housing Act. Such project shall be located in an area of the Appalachian region determined by the Appalachian Regional Commission to have significant potential for future growth.

§ 51.3 Delegation from Secretary to Assistant Secretary—Federal Housing Commissioner.

The Secretary has delegated to the Assistant Secretary—Federal Housing Commissioner the authority to execute the powers and functions vested in the Secretary by section 207 of the Appalachian Regional Development Act of 1965. The delegation includes the authority for the Commissioner to redelegate such authority to one or more employees under his jurisdiction, and to Regional Administrators and Deputy Regional Administrators, and to authorize successive redelegations by the Commissioner's employees and by Regional employees.

§ 51.5 Definitions.

As used in this part:

(a) "Act" means the Appalachian Regional Development Act of 1965, as amended.

(b) "Commission" means the Appalachian Regional Commission, its Executive Committee, or the Federal Cochairman of such Commission or his authorized representative.

(c) "Commissioner" means the Assistant Secretary—Federal Housing Commissioner or his authorized representative.

(d) "Cooperative organization" means a nonprofit cooperative ownership housing corporation or trust approved by the Commissioner which restricts permanent occupancy of the project to the members of the corporation or trust and which prescribes requirements, approved by the Commissioner, for obtaining and transferring membership.

(e) "Fund" means the Appalachian Housing Fund allocated to the Secretary for carrying out the purposes of this part.

(f) "Limited dividend organization" means an entity eligible as a limited distribution mortgagor under section 221 of the National Housing Act and § 221.510 (c) of this title.

(g) "Nonprofit organization" means a corporation or association organized for purposes other than the making of profit or gain for itself or any persons identified therewith and which the Commissioner finds is in no manner controlled or directed by persons or firms seeking to derive profit or gain from its operation.

(h) "Public body" means a Federal instrumentality, a State or political subdivision or an instrumentality thereof, which certifies that it is not receiving financial assistance from the United States exclusively pursuant to the United States Housing Act of 1937.

(i) "Secretary" means the Secretary of Housing and Urban Development or an officer of the Department of Housing and Urban Development empowered to exercise any of the functions of the Secretary under section 207 of the Act.

(j) "Section 221" means section 221 of the National Housing Act.

(k) "Section 221 regulations" means the regulations in Subchapter G, Part 221 of this title issued to implement section 221 of the National Housing Act.

(l) "State member" means the member of the Appalachian Regional Commission who represents the State in which a proposed housing project is to be located, or his authorized representative.

§ 51.7 Scope of assistance.

The Commissioner may make loans or grants from the fund to encourage and facilitate the construction or rehabilitation of housing in any area of the Appalachian Region determined by the Commission to have significant potential for future growth. The conditions of eligibility for applicants and applications for such loans or grants and the terms and conditions under which the proceeds of such loans and grants may be used are specified in this part.

§ 51.10 Location of proposed project.

The proposed project for which a loan or grant is sought shall be located in the Appalachian region as that term is defined in section 403 of the Appalachian Regional Development Act, as amended (40 U.S.C. Apendix A, sec. 403). The proposed project shall be located in an area of such region determined by the Commission to have significant potential for future growth.

§ 51.13 Filing, processing and approving applications.

(a) Prior to filing an aplication for a loan or grant under this part, the applicant shall obtain aproval for such filing from the State member. The application shall be filed, on a form prescribed by the Commissioner, with the FHA insuring office having jurisdiction over the area in which the applicant proposes to construct or rehabilitate a housing project to be financed with a mortgage insured under section 221.

(b) Upon a determination by the Commissioner that the financial assistance applied for will carry out the purposes of this part and that an applicant is eligible for such assistance, the application will be submitted to the Commission for final approval.

(c) After review, and upon approval by the Commission, the loan or grant may be disbursed by the Commissioner.

§ 51.15 Eligible applicants.

(a) To be eligible for a loan, an applicant must be a nonprofit, limited dividend, or cooperative organization or a public body.

(b) To be eligible for a grant, an applicant must be a nonprofit or cooperative organization or a public body.

(c) An applicant for a loan or grant shall have available funds or assets considered adequate by the Commissioner to defray no less than 20 percent of the expenses of planning a project and of obtaining a mortgage insured under section 221.

§ 51.17 Use of loan or grant proceeds.

An applicant shall agree, in form satisfactory to the Commissioner, to use the loan or grant proceeds for the expenses of planning a housing or rehabilitation project and for obtaining the financing of such project by a mortgage insured under section 221. The plans for such project shall contemplate its ownership by one of the following:

(a) The applicant.

(b) A cooperative organization.

(c) A nonprofit organization to be formed and controlled in a manner satisfactory to the Commissioner.

§ 51.20 Maximum amount of loan.

The loan shall not exceed 80 percent of the total cost of both planning the project and of obtaining an insured mortgage under section 221. These costs may include preliminary surveys and analyses of market needs; preliminary site engineering and architectural fees; options for the purchase of land; FHA and FNMA fees; construction loan fees and discounts; and such other items of cost as may be approved by the Commissioner. The loan shall be disbursed on the basis of 80 percent of the Commissioner's estimate of the total cost for such planning and for obtaining the insured mortgage. The loan contract shall provide for an adjustment of the loan to an amount which will not exceed 80 percent of the actual expenditures for such total cost.

§ 51.23 Maximum amount of grant.

(a) The grant shall not exceed 80 percent of the difference between:

(1) The amount representing all the administrative expenses incident to planning a project added to the cost of obtaining a mortgage under section 221; and

(2) The amount of such expenses recovered from the proceeds of the insured mortgage.

(b) The administrative expenses incident to planning a project may include preparation of applications to the FHA and FNMA, coordination and management activities, and such other items of administrative expense as may be approved by the Commissioner.

(c) The grant shall be disbursed in an amount determined by applying the formula in paragraph (a) of this section to the Commissioner's estimate of both the expenses that will be incurred and the expenses that will be recovered from mortgage proceeds.

(d) The grant contract shall provide for an adjustment of the grant by applying the formula in paragraph (a) of this section to the actual expenses and the amount of such expenses recovered from mortgage proceeds.

§ 51.25 Waiver of repayment.

The Commissioner may waive the repayment of all or such part of a loan, including interest thereon, that he determines cannot be recovered from the proceeds of a mortgage or mortgages insured under section 221. No waiver shall be made in connection with a loan to a limited dividend organization.

§ 51.27 Maturity of loans—contract provisions.

The contract for a loan shall provide for repayment by the borrower within 6 months following the first disbursement of funds pursuant to the contract or at such time as the borrower recovers his expenses from the mortgage proceeds, or at such other time as may be fixed by contract with the Commissioner. The Commissioner may extend the time for repayment under such terms and conditions as he may prescribe.

§ 51.30 Interest on loans.

(a) Interest shall not be charged to borrowers other than limited dividend organizations.

(b) Interest charged to a limited dividend organization shall be at the prevailing market rate, which shall be the maximum rate authorized under § 221.518(a) of this title for mortgages insured under section 221. Such rate shall be determined as of the date the insuring office director recommends approval of the application for financial assistance under the Act.

Issued at Washington, D.C., April 25, 1968.

PHILIP N. BROWNSTEIN,
Federal Housing Commissioner.

[F.R. Doc. 68-5204; Filed, Apr. 30, 1968; 8:46 a.m.]

Chapter II—Federal Housing Administration, Department of Housing and Urban Development

SUBCHAPTER A—GENERAL

PART 200—INTRODUCTION

Subpart D—Delegations of Basic Authority and Functions

In § 200.50, a new paragraph (e) is added to read as follows:

§ 200.50 Authority for delegations.

* * * * *

(e) Section 207 of the Appalachian Regional Development Act of 1965, added by section 112 of the Appalachian Regional Development Act Amendments of 1967, authorizes the Secretary of Housing and Urban Development to make loans and grants, under such terms and conditions as he may prescribe, to nonprofit, limited dividend, or cooperative organizations, or to public bodies, for expenses of planning and of obtaining an insured mortgage for a housing construction or rehabilitation project, under section 221 of the National Housing Act, in any area of the Appalachian region determined by the Appalachian Regional Commission to have significant potential for future growth.

The Assistant Secretary—Federal Housing Commissioner is, by delegation of authority from the Secretary, authorized to execute the powers and functions vested in the Secretary by section 207 of the Appalachian Regional Development Act of 1965, as amended, and is further authorized to redelegate to one or more employees under his jurisdiction any of the authority delegated by the Secretary and to authorize successive delegation thereof.

In § 200.65, a new paragraph (c) is added to read as follows:

§ 200.65 Assistant Commissioner for Programs and Deputy.

* * * * *

(c) To act for the Commissioner in approving applications for financial assistance and in approving the waiver of repayment of loans made under section 207 of the Appalachian Regional Development Act of 1965, as amended, and in approving the waiver of interest on such loans made to nonprofit organizations.

In § 200.77, a new paragraph (aa) is added to read as follows:

§ 200.77 Assistant Commissioner-Comptroller and Deputy.

* * * * *

(aa) With respect to the Appalachian Housing Fund, pursuant to the Appalachian Regional Development Act of 1965:

(1) To invest the moneys held in the fund in bonds or other obligations of the United States, or in bonds or other obligations guaranteed as to principal and interest by the United States;

(2) To disburse moneys in the fund for making loans and grants for projects under section 207 of the Appalachian Regional Development Act of 1965 approved pursuant to section 223 of such Act and for general expenses of administration of section 207 of such Act; and

(3) To collect the loan repayments and interest thereon.

In § 200.109, a new paragraph (c) is added to read as follows:

§ 200.109 HUD Regional Administrators (except Regional Administrator, Region VII) and Assistant Regional Administrators for FHA.

* * * * *

(c) To recommend to the Assistant Commissioner for Programs approval of applications for financial assistance and approval of waiver of repayment of loans made under section 207 of the Appalachian Regional Development Act of 1965, as amended.

* * * * *

(Sec. 2, 48 Stat. 1246, as amended; sec. 211, 52 Stat. 23, as amended; sec. 607, 55 Stat. 61, as amended; sec 712, 62 Stat. 1281, as amended; sec. 907, 65 Stat. 301, as amended; sec. 807, 69 Stat. 651, as amended; 12 U.S.C. 1703, 1715b, 1742, 1747k, 1748f, 1750f)

Issued at Washington, D.C., April 25, 1968.

[SEAL] PHILIP N. BROWNSTEIN,
Federal Housing Commissioner.

[F.R. Doc. 68-5203; Filed, Apr. 30, 1968; 8:46 a.m.]

Title 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

SUBCHAPTER T—OPERATION AND MAINTENANCE

PART 221—OPERATION AND MAINTENANCE CHARGES

Flathead Indian Irrigation Project, Mont.

On page 4807 of the FEDERAL REGISTER of March 21, 1968, there was published a notice of intention to modify §§ 221.16 and 221.17 of Title 25, Code of Federal Regulations, dealing with the irrigable lands of the Flathead Indian Irrigation Project, Mont., that are not subject to the jurisdiction of the several irrigation districts. The purpose of the amendment is to establish the assessment rate for nondistrict lands of the Flathead Indian Irrigation Project for 1968 and thereafter until further notice.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed amendment. No comments, suggestions, or objections have been received, and the proposed amendment is hereby adopted without change as set forth below.

Section 221.16 is amended to read as follows:

§ 221.16 Charges, Jocko Division.

(a) An annual minimum charge of $2.96 per acre, for the season of 1968 and thereafter until further notice, shall be made against all assessable irrigable land in the Jocko Division that is not included in an irrigation district organization, regardless of whether water is used.

(b) The minimum charge when paid shall be credited on the delivery of the pro rata per acre share of the available water up to 1½ acre feet per acre for the entire assessable area of the farm unit, allotment, or tract. Additional water, if available, will be delivered at the rate of one dollar and ninety-eight ($1.98) per acre-foot or fraction thereof.

Section 221.17 is amended to read as follows:

§ 221.17 Charges, Mission Valley and Camas Divisions.

(a) (1) An annual minimum charge of $3.44 per acre, for the season of 1968 and thereafter until further notice, shall be made against all assessable irrigable land in the Mission Valley Division that is not included in an irrigation district organization regardless of whether water is used.

(2) The minimum charge when paid shall be credited on the delivery of the pro rata per acre share of the available water up to 1½ acre-feet per acre for the entire assessable area of the farm unit, allotment, or tract. Additional water, if available, will be delivered at the rate of two dollars and thirty cents ($2.30) per acre-foot or fraction thereof.

(b) (1) An annual minimum charge of $3.30 per acre, for the season of 1968 and thereafter until further notice, shall be made against all assessable irrigable land in the Camas Divisior that is not included in an irrigation district organization regardless of whether water is used.

(2) The minimum charge when paid shall be credited on the delivery of the pro rata per acre share of the available water up to 1½ acre-feet per acre for the entire assessable area of the farm unit, allotment, or tract. Additional water, if available, will be delivered at the rate of two dollars and twenty cents ($2.20) per acre-foot or fraction thereof.

JAMES F. CANAN,
Area Director.

[F.R. Doc. 68-5191; Filed, Apr. 30, 1968; 8:45 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter V—Smithsonian Institution

PART 504—RULES AND REGULATIONS GOVERNING SMITHSONIAN INSTITUTION BUILDINGS AND GROUNDS

The following regulations, Part 504, Chapter V, Title 36 of the Code of Federal Regulations, governing the Buildings and Grounds of the Smithsonian Institution shall become effective ten (10) days after the date of publication in the FEDERAL REGISTER.

Sec.
504.1 General.
504.2 Recording presence.
504.3 Preservation of property.
504.4 Conformity with signs and emergency detections.
504.5 Nuisances.
504.6 Gambling.
504.7 Intoxicating beverages and narcotics.
504.8 Soliciting, vending, debt collection, and distribution of handbills.
504.9 Placards, signs, banners and flags.
504.10 Dogs and other animals.
504.11 Photographs for news, advertising, or commercial purposes.

Sec.
504.12 Items to be checked.
504.13 Vehicular and pedestrian traffic.
504.14 Weapons and explosives.
504.15 Nondiscrimination.
504.16 Penalties.

AUTHORITY: The provisions of this Part 504 issued under secs. 1–9, 65 Stat. 634, as amended, secs. 1–4, 78 Stat. 365; 40 U.S.C. 193n–193w.

§ 504.1 General.

These rules and regulations apply to all buildings and grounds of the Smithsonian Institution, as defined in section 3, 78 Stat. 366; 40 U.S.C. 193v(1) (A) and (C), and to all persons entering in or on such buildings and grounds, hereinafter referred to as the premises.

§ 504.2 Recording presence.

Except as otherwise ordered, Smithsonian buildings shall be closed to the public after normal visiting hours. Such buildings, or portions thereof, shall also be closed to the public in emergency situations and at such other times as may be necessary for the orderly conduct of business. Whenever the buildings are closed to the public for any reason, visitors will immediately leave the premises upon being requested by a guard or other authorized individuals. Admission to such premises during periods when closed to the public will be limited to authorized individuals who will be required to register and identify themselves when requested by guards or other authorized individuals.

§ 504.3 Preservation of property.

It is unlawful willfully to destroy, damage, or remove property or any part thereof. Any parcels, portfolios, bags, or containers of any kind may be required to be opened and the contents identified prior to removal from the premises. In order to remove any property from the premises, a properly completed property pass signed by an authorized official of the Smithsonian Institution may be required prior to removal.

§ 504.4 Conformity with signs and emergency directions.

Persons in or on the premises shall comply with official signs of a prohibitory or directory nature and with the directions of authorized individuals.

§ 504.5 Nuisances.

The use of loud, abusive, or otherwise improper language; unwarranted loitering, sleeping or assembly; the creation of any hazard to persons or things; improper disposal of rubbish; spitting, prurient prying; the commission of any obscene or indecent act, or any other unseemly or disorderly conduct on the premises; throwing articles of any kind from or within a building; or climbing upon any part of a building is prohibited.

§ 504.6 Gambling.

Participating in games for money or other personal property or the operation of gambling devices, the conduct of a lottery or pool, or the selling or purchasing of numbers tickets in or on the premises is prohibited.

§ 504.7 Intoxicating beverages and narcotics.

Entering the premises or the operating of a motor vehicle thereon by a person under the influence of any intoxicating beverage or narcotic drug or the use of such drug in or on the premises is prohibited. Consumption of intoxicating beverages on the premises is prohibited, unless officially authorized.

§ 504.8 Soliciting, vending, debt collection, and distribution of handbills.

The soliciting of arms and contributions, commercial soliciting and vending of all kinds, the display or distribution of commercial advertising, or the collecting of private debts, in or on the premises is prohibited. This rule does not apply to national or local drives for funds for welfare, health, and other purposes sponsored or approved by the Smithsonian Institution concessions, or personal notices posted by employees on authorized bulletin boards. Distribution of material such as pamphlets, handbills, and flyers is prohibited without prior approval of authorized individuals.

§ 504.9 Placards, signs, banners and flags.

The displaying or carrying of placards, signs, banners, or flags is prohibited unless officially authorized.

§ 504.10 Dogs and other animals.

Dogs and other animals, except seeing-eye dogs, shall not be brought upon the premises for other than official purposes.

§ 504.11 Photographs for news, advertising, or commercial purposes.

No photographs for advertising or any other commercial purpose may be taken on the premises unless officially authorized.

§ 504.12 Items to be checked.

Umbrellas, canes (not needed to assist in walking), or other objects capable of inflicting damage to property or exhibits may be required to be checked in buildings where checking facilities are provided.

§ 504.13 Vehicular and pedestrian traffic.

(a) Drivers of all vehicles in or on the premises shall drive in a careful and safe manner at all times and shall comply with the signals and directions of the guards and all posted traffic signs.

(b) The blocking of entrances, driveways, walks, loading platforms, or fire hydrants in or on property is prohibited. Parking without authority, or parking in unauthorized locations or in locations reserved for other persons or contrary to the direction of posted signs, is prohibited. This paragraph may be supplemented from time to time by the issuance and posting of such additional traffic and parking directives as may be required, and such directives shall have the same force and effect as if made a part thereof.

§ 504.14 Weapons and explosives.

No person while on the premises shall carry firearms, other dangerous or deadly weapons, or explosives, either openly or concealed, except for official purposes.

§ 504.15 Nondiscrimination.

There shall be no discrimination by segregation or otherwise against any person or persons because of race, religion, color, or national origin in furnishing or by refusing to furnish to such person or persons the use of any facility of a public nature, including all services, privileges, accommodations, and activities provided thereby on the premises.

§ 504.16 Penalties.

Section 6 of the Smithsonian Institution Special Policing Statute, Act of October 24, 1951, 65 Stat. 635, 40 U.S.C. 193(s) states that:

> Whoever violates any provision of sections 193o–193q of this title, or any regulation prescribed under section 193r of this title, shall be fined not more than $100 or imprisoned not more than sixty days, or both, prosecution for such offenses to be had in the District of Columbia Court of General Sessions, upon information by the U.S. attorney or any of his assistants: *Provided*, That in any case where, in the commission of such offense, property is damaged in an amount exceeding $100, the amount of the fine for the offense may be not more than $5,000, the period of imprisonment for the offense may be not more than 5 years and prosecution shall be had in the U.S. District Court for the District of Columbia by indictment, or if the defendant, after he has been advised of the nature of the charge and of his rights, waives in open court prosecution by indictment, by information by the U.S. attorney or any of his assistants.

Dated: April 26, 1968.

S. DILLON RIPLEY,
Secretary.

[F.R. Doc. 68-5214; Filed, Apr. 30, 1968; 8:47 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER F—TELECOMMUNICATIONS AND PUBLIC UTILITIES

PART 101-35—TELECOMMUNICATIONS

Major Changes to FTS

Part 101-35 is amended to include a definition of the Federal Telecommunications System; to provide that all major changes to FTS facilities, all changes to the Advanced Record System (ARS), and major changes in, and new installations of, non-FTS facilities, must be approved by GSA; to expand and redefine the information required to justify each major change in, and installation of, data transmission facilities; and to clarify the circumstances under which the installation of touch-tone instruments is authorized.

The table of contents for Part 101-35 is amended by the revision and addition of following entries:

Sec.
101-35.105 Telecommunications services.

Sec.
101-35.105-1 Definition of telecommunications services.
101-35.105-2 Federal Telecommunications System.
101-35.201-1 Changes to other than FTS.
101-35.201-2 Changes to FTS.

Subpart 101-35.1—General Provisions

Section 101-35.105 is revised to read as follows:

§ 101-35.105 Telecommunications services.

§ 101-35.105-1 Definition of telecommunications services.

"Telecommunications services" include, without limitation, the transmission, emission, or reception of signals, signs, writing, images, sounds, or intelligence of any nature, by wire, radio, visual, or other electrical, electromagnetic, or acoustically coupled means. Telecommunication facilities include equipment used for such modes of transmission as telephone, telegraph, teletypewriter, data, facsimile, telephotograph, video, audio, and such corollary items as distribution systems and communications security facilities.

§ 101-35.105-2 Federal Telecommunications System.

The Federal Telecommunications System (FTS) is under the overall management of GSA and provides voice, record, data, and facsimile services over point-to-point and switched networks. The FTS includes the intercity voice network, the consolidated local telephone service, the Advanced Record System (ARS), and other subsystems which which may be for exclusive or common use.

Subpart 101-35.2—Major Changes and New Installations

1. Section 101-35.201 is revised to read as follows:

§ 101-35.201 General.

§ 101-35.201-1 Changes to other than FTS.

Executive agencies contemplating major changes in telecommunications facilities (non-FTS) or the installation of new facilities (non-FTS) shall give GSA 20 regular workdays notice before the desired effective date. GSA will approve or disapprove the changes within the 20-day period.

§ 101-35.201-2 Changes to FTS.

Major changes, as defined in § 101-35.202, to any element or subsystem of the FTS must be approved by GSA. Executive agencies contemplating such changes shall give GSA 20 regular workdays notice before the desired effective date. GSA will approve or disapprove the requested changes within the 20-day period, and, if approved, take appropriate action. Minor changes to the ARS must be handled in the same way as a major change because of the terms and conditions of the ARS contractual arrangements. However, ARS minor changes, such as station equipment relocation, normally will be approved immediately. Minor changes to all other elements or subsystems of the FTS may be made by using agencies provided that GSA is given concurrent notification.

2. Section 101-35.203 is amended as follows:

§ 101-35.203 Justification of major changes and new installations.

The specific information required for each major change in or installation of FTS and non-FTS telecommunications facilities is as follows:

* * * * *

(c) *Data transmission service.* (1) The make and model number of the proposed data terminals.

(2) Detailed characteristics of the technical interface requirements between the communications terminal and the computer to be utilized.

(3) Make, model number, and configuration of the computer.

(4) Cost details of any and all of the proposed terminals, data sets, channel terminals, and circuit costs, both for recurring and one-time charges.

(5) Points of interconnection for exchange of data information, and the data flow between these interconnection points or terminations, to include: Number of characters per transmission; number of transmissions per day; probable busy hour of the day for these transmissions; days of the week that these transmissions must be made; and volume of traffic between these terminals as well as to and from any central collection point.

(6) Perishability of data or the requirements for rapid turnaround time.

(7) Residual errors permissible.

(8) Such other pertinent information agencies may wish to present that will enable GSA to evaluate the data proposal.

(9) A recommendation to GSA based on an analysis of the above facts.

* * * * *

Subpart 101-35.3—Utilization and Ordering of Telecommunications Services

Section 101-35.308-5 is revised to read as follows:

§ 101-35.308-5 Touch-tone instruments.

Touch-tone instruments are prohibited, unless provided without additional cost under a general tariff applicable to all instruments associated with the same PBX arrangement. This prohibition may be waived in instances where the head of an agency certifies to the Administrator of General Services that, due to special operating requirements, touch-tone instruments are essential to the effective or economical execution of agency responsibilities.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date: These regulations are effective upon publication in the FEDERAL REGISTER.

Dated: April 24, 1968.

LAWSON B. KNOTT, Jr.,
Administrator of General Services.

[F.R. Doc. 68-5189; Filed, Apr. 30, 1968; 8:45 a.m.]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER F—QUARANTINE, INSPECTION, LICENSING

PART 73—BIOLOGICAL PRODUCTS

Shipping Temperatures

On January 9, 1968 a notice of rule making was published in the FEDERAL REGISTER (33 F.R. 292) proposing to amend Part 73 of the Public Health Service Regulations, by prescribing the appropriate temperatures to be maintained during shipment for specific products which require refrigeration.

Views and arguments respecting the proposed standards were invited to be submitted within 30 days after publication of the notice in the FEDERAL REGISTER, and notice was given of intention to make any amendments that were adopted effective 30 days after the date of their publication in the FEDERAL REGISTER.

After consideration of the one comment submitted, the following amendment to Part 73 of the Public Health Service Regulations is hereby adopted to become effective 30 days after the date of publication in the FEDERAL REGISTER.

1. Add the following designation to the Table of Contents immediately following "73.39 Reporting of errors.":

73.40 Temperatures during shipment.

2. Insert a new § 73.40 immediately after § 73.39 to read as follows:

§ 73.40 Temperatures during shipment.

The following products shall be maintained during shipment at the specified temperatures:

Product	*Temperature*
Whole Blood (Human).	Between 1° and 10° C.
Packed Red Blood Cells (Human).	Between 1° and 10° C.
Poliovirus Vaccine, Live, Oral, Type 1	A temperature which will maintain ice continuously in a solid state.
Poliovirus Vaccine, Live, Oral, Type 2	
Poliovirus Vaccine, Live, Oral, Type 3	
Poliovirus Vaccine, Live, Oral, Trivalent	
Single Donor Plasma (Human), Frozen.	−18° C. or colder.
Smallpox Vaccine, Liquid.	A temperature which will maintain ice continuously in a solid state.
Yellow Fever Vaccine.	A temperature which will maintain ice continuously in a solid state.

§ 73.304 [Amended]

3. Section 73.304(d) is deleted.

4. Revise § 73.327 to read as follows:

§ 73.327 General requirements.

Manufacturing responsibilities, periodic check on sterile technique and reissue shall be carried out in all respects for Packed Red Blood Cells (Human) as prescribed in § 73.304 for Whole Blood (Human).

(Sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216. Interpret or apply sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262)

Dated: April 12, 1968.

[SEAL] J. A. SHANNON,
Director,
National Institutes of Health.

Approved: April 25, 1968.

WILBUR J. COHEN,
Acting Secretary.

[F.R. Doc. 68-5225; Filed, Apr. 30, 1968; 8:48 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4412]

[Oregon 2471 (Wash.)]

WASHINGTON

Exclusion of Lands From Gifford Pinchot National Forest

By virtue of the authority vested in the President by section 1 of the act of June 4, 1897 (30 Stat. 34, 36; 16 U.S.C. 473), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

The following described lands are hereby eliminated from the Gifford Pinchot National Forest, and the boundaries of the said national forest are adjusted accordingly:

WILLAMETTE MERIDIAN

T. 7 N., R. 3 E.,
Secs. 1 to 11, inclusive.
T. 8 N., R. 3 E.,
All.
T. 7 N., R. 4 E.,
Secs. 3 to 6, inclusive.
T. 8 N., R. 4 E.,
Secs. 2 to 10, inclusive;
Sec. 31.

The areas described aggregate approximately 37,843.96 acres of nonpublic land.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

APRIL 25, 1968.

[F.R. Doc. 68-5192; Filed, Apr. 30, 1968; 8:45 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 17955; FCC 68-455]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations; Table of Assignments, Geneva, Ala., et al.

Report and order. In the matter of amendment of § 73.202(b), Table of Assignments, FM broadcast stations (Geneva, Ala., Baker, Mont., Wallace, N.C., Zeeland, Mich., Springdale, Ark., College, Alaska, Myrtle Beach, S.C., Refugio, Tex., Gardiner, N.Y., Fort Valley and Douglas, Ga., Billings, Mont., and McMinnville, Tenn.). Docket No. 17955, RM-1217, RM-1216, RM-1224, RM-1230, RM-1231, RM-1213, RM-1219, RM-1221, RM-1222, RM-1225, RM-1226, RM-1228.

1. The Commission has before it for consideration its notice of proposed rule making, FCC 68-42, issued in this proceeding on January 12, 1968, and published in the FEDERAL REGISTER on January 17, 1968 (33 F.R. 578), inviting comments on a number of proposed changes in the FM Table of Assignments advanced by various interested parties. All the comments and data filed were considered in making the following determinations. Except as noted, the proposals were unopposed and all population figures are taken from the 1960 U.S. Census.

2. *RM-1217, Geneva, Ala. (Geneva County Broadcasting Co., Inc.); RM-1216, Baker, Mont. (Baker Radio Corp); RM-1224, Wallace, N.C. (Duplin Broadcasting Co.); RM-1230, Zeeland, Mich. (West-State Broadcasting Co.); RM-1231, Springdale, Ark. (Autus Johnson).* In these five cases, interested parties seek the assignment of a first Class A channel in a community, without requiring any other changes in the table. The communities range in size from a population of 2,285 to 10,076 persons. Only two of them have a nighttime AM station, two have a daytime-only station, and one has no radio station. We are of the view that the requests for a first FM assignment in each are merited and that they would serve the public interest. We are therefore adding the following FM assignments to the Table: Geneva, Ala., Channel 228A; Springdale, Ark., Channel 285A; Zeeland, Mich., Channel 285A; Baker, Mont., Channel 265A; and Wallace, N.C., Channel 232A. In the case of Wallace, N.C., and Zeeland, Mich., sites will have to be located out of town in order to conform to all the required minimum spacings.

3. *RM-1213. College, Alaska.* In a petition filed on October 9, 1967, The University of Alaska, licensee of Station KUAC(FM), College, Alaska, requested the substitution of Channel 284 for 285A at College. College is a small community of 1,755 persons located near Fairbanks, which has been assigned two Class C channels, neither of which is in use. The University states that it desires to increase its power beyond that permitted Class A stations in order to better serve the populated areas surrounding College, which have no other FM service, and urges that the proposed change will make this possible and thereby serve the public interest.

4. In view of the fact that the proposed substitution of a Class C for a Class A channel at College would permit service to a large area presently without FM service, we believe that the request is merited and would serve the public interest. We are thus adopting the petitioner's request. In addition we are modifying the license of Station KUAC(FM) to specify operation on Channel 284 in lieu of 285A.

5. *RM-1219. Myrtle Beach, S.C.* On November 16, 1967, Grand Strand Broadcasting Corp., licensee of radio Station WTGR(AM), Myrtle Beach, S.C., filed a petition looking toward the assignment of a second Class A FM channel to Myrtle Beach as follows:

City	Channel No.	
	Present	Proposed
Myrtle Beach, S.C.	221A	221A, 269A

Myrtle Beach is a community of 7,834 persons. It is the largest community, but not the county seat, of Horry County, which has a population of 68,247 persons. Conway, the county seat, has a Class C station in operation and a fulltime AM station. Myrtle Beach has two AM stations, one a Class IV and the other a daytime-only station, as well as a station in operation on Channel 221A. Petitioner submits that Myrtle Beach is the center and largest community of a large seashore and residential area along the South Carolina coast, that it has shown a dramatic growth over the past years from 3,349 in 1950 to a present estimated population of 10,500, that it is an important educational, civic, and industrial center, and that, in view of these facts, it merits the assignment of a second FM channel for local self-expression. It submits figures on building permits, retail sales, educational and religious facilities, manufacturing plants, and recreational facilities as evidence of need for a second FM station for an additional local radio outlet. In connection with the population figures for the community, petitioner points out that, due to the extensive recreational facilities available such as fishing, boating, golf, etc., the vacation population rises to about 100,000 during the week and 140,000 during weekends. It also points out that the Myrtle Beach Air Force Base with several thousand personnel is located only about 3 miles from the Myrtle Beach corporate limits.

6. In the important matter of possible preclusion of future needed assignments elsewhere, petitioner submits information to show that no such preclusion is possible on the six adjacent channels due to existing stations and assignments in the general area. With respect to Channel 269A, it submits that there are only two communities in the area precluded by the assignment proposed for Myrtle Beach with a population over 2,500. These are Georgetown, which has two FM assignments for which no applications has as yet been filed, and Conway, which has a Class C station in operation. Since our notice made reference to another case (Crossville, Tenn.), in which a request from a community for a second Class A channel was denied, Grand Strand argues that not only is Crossville smaller than Myrtle Beach but that it does not have the large vacation population and the nearby substantial military installation that Myrtle Beach has. Further, it

contends that in the case of Crossville, of the two communities precluded by the request, one has no FM assignment and the other, although larger, has only one FM assignment, and that no such effect results from the subject request. Petitioner concludes then that the proposal for a second FM assignment in Myrtle Beach would serve the public interest.

7. In view of the small size of Myrtle Beach (under 10,000 in 1960), the existence of two AM stations in the community, and the assignment of one Class A FM channel thereto, we are reluctant to assign a second FM channel to this community. However, petitioner has made a substantial showing of need due to population growth, seasonal increase due to its central location in a large recreational area, and nearness to a large military installation. But more convincing is the showing made as to the small adverse impact on possible future needed assignments in other communities. Based upon a study of all the comments and data submitted by petitioner we are of the view that the addition of Channel 269A to Mrytle Beach is merited in this case and would serve the public interest. It would provide a second competitive FM outlet and a third local nighttime radio service to the area without adversely affecting the future fair and equitable distribution of available facilities. We are therefore adopting the Grand Strand proposal and assigning Channel 269A to Myrtle Beach, S.C.

8. *RM-1221. Refugio, Tex.* In a petition filed on November 20, 1967, Lawrence Wood, prospective applicant for a new FM station in Refugio, Tex., requests the assignment of a Class C channel, 294, to Refugio. Refugio is a community of 4,944 persons, located about midway between Corpus Christi and Victoria (37 miles from each).[1] It is the county seat and largest community in Refugio County (population 10,975). There are no AM stations in the community. Petitioner urges the need for a Class C assignment in this small community on the basis that it is far removed from population centers, is located in a county of very low population density (14.2 persons per square mile), and needs a wide-coverage station in order to make it economically feasible. Based upon an assumed operation with an effective radiated power of 50 kilowatts and an antenna height of 400 feet and the 1 mv/m contours of such a station and other existing stations and assignments assumed to have facilities believed to be reasonable (see further notice of proposed rule making issued on June 9, 1967 in Docket No. 17095, RM-1034, FCC 67-665) petitioner computes the "white area" to be 144.4 square miles. The population figure for the area to receive a first FM service at the site proposed is given as 1,348 persons but the area does not appear to contain any community of significant size. Mr. Wood also requests that a Class A channel be assigned to Refugio in the event the Commission determines not to assign the requested Class C channel.

9. We stated in our notice that we were not convinced that such a small community, so located with respect to larger cities which have been assigned Class C channels such as Corpus Christi and Victoria, merits the assignment of a Class C assignment. We therefore invited comments on an alternative proposal to make a Class A channel available to Refugio and pointed out that Channels 224A, 292A, or 296A were available for assignment. The showing of "white area" coverage which would result from the proposed Channel 294 assignment is not very convincing. The 144 square miles includes very little population. Petitioner cites the case of an assignment of a Class C channel to Clinton, Okla., to support the claim for Refugio. However, that community is much further removed from any population centers, being about 80 miles from Oklahoma City, the closest population center. Further, because of its greater distances to population centers and communities with Class C assignments, the area to receive a first service from Clinton would be far greater than that at Refugio. As to the economic need for a Class C channel, petitioner computes that a Class A channel would serve over 10,000 people and that only an additional 1,334 persons would receive a first FM service even with the proposed facilities. We do not believe that these facts support the request for a wide-area channel especially since a large area would be precluded from using Channel 294 at some future date.

10. Upon consideration of all the evidence before us we are of the view that the request for Channel 294 should be denied and that the assignment of a Class A channel instead would serve the public interest. We are therefore assigning Channel 224A to Refugio.

11. *RM-1222. Gardiner and Ellenville, N.Y.* Gardiner, N.Y. is a small community of 1,660 persons located about 14 miles NNW of Newburgh, which has a population of 30,979. Ulster County, in which Gardiner is located has a population of 118,804. Kingston is its county seat and Ellenville is its largest community. On November 22, 1967 (amended Nov. 29, 1967), Hudson Horizons, Inc., licensee of radio Station WGNY(AM), Newburgh, N.Y., filed a petition requesting the assignment of a first Class A FM channel to Gardiner apparently intended to serve the larger community of Newburgh. Since the channel requested for Gardiner, Channel 257A, could also be assigned to the larger community of Ellenville, N.Y., which is further removed from existing stations and assignments, we invited comments on the alternative to assign Channel 257A to Ellenville.

12. Hudson urges that Channel 257A be assigned to Gardiner rather than Ellenville and submits a detailed study of the populations to be served by the 1 mv/m contour of stations at each location and the services available from other stations within these contours. It is computed that the population within the proposed 1 mv/m contour of a station at Gardiner would be 192,570 persons while that for a station at Ellenville would be 38,370 persons. Seven stations will provide a 1 mv/m signal over a portion of the Gardiner contour while eight stations will provide such a signal over portions of the Ellenville contour. Hudson states that Ellenville has a AM station (daytime-only) while Gardiner has none. Petitioner concedes that most of Newburgh and all of Poughkeepsie are within the proposed Gardiner 1 mv/m contour and this accounts for a considerable portion of the population which would be served by a Gardiner operation but submits that deducting this population there still would remain 86,530 people to be served. Finally, Hudson urges that the proposed assignment to Gardiner represents "the most efficient and effective use of the channel which can be made under the circumstances."

13. Based upon a careful study of the comments and data submitted in the proceeding we cannot agree with petitioner that the assignment of Channel 257A to Gardiner rather than Ellenville represents the most efficient or effective use of the channel. On balance, we are of the view that the assignment of a first FM channel to Ellenville, with a population of over three times that of Gardiner and further removed from existing stations and assignments, should be preferred. While it is true that more people would be served by the 1 mv/m contour of a Gardiner station than an Ellenville station, as the petitioner admits, a good portion of this difference is composed of people already receiving service from the Newburgh and Poughkeepsie stations. A review of the maps of existing services within these contours supplied by the petitioner reveals a rather large "white area" to be served by an Ellenville station and an equally large area to receive a second service, whereas the bulk of the area to be served by the proposed Gardiner station has from one to five other FM signals available. We are of the view that this consideration more than outweighs the fact that Ellenville has a daytime-only station, especially since the express purpose of the proposal is to serve the Walkill River Valley, which already has from three to four FM services. We therefore believe that the public interest would best be served by assigning Channel 257A to Ellenville, N.Y., as a first FM outlet and a first nighttime radio facility.

14. *RM-1225. Fort Valley and Douglas, Ga.* In a petition filed on November 28, 1967, Rocket Radio, Inc., licensee of radio Station WFPM(AM), Fort Valley, Ga., requested rule making looking toward the assignment of a first Class A channel to Fort Valley, Ga., by making a necessary change in an assignment at Douglas, Ga., as follows:

City	Channel No.	
	Present	Proposed
Fort Valley, Ga.		292A
Douglas, Ga.	258, 293	258, 294

[1] Petitioner gives these distances as 45 and 40 miles respectively but these appear to be in error.

There are no stations on or applications for either Douglas channel. Fort Valley is located about 24 miles southwest of Macon and has a population of 8,310. It is the county seat and largest community in Peach County, which has a population of 13,846. The only radio station in the community is a daytime-only station, licensed to petitioner.

15. Petitioner submits that the primary service area of the daytime-only station in Fort Valley embraces a population of over 45,000 people, that there is no local radio service in the area after sundown, that the proposal conforms to the rules and would not adversely affect any station or asignment, and that an application for use of the proposed assignment will be filed in the event it is adopted.

16. Since the proposal would provide a first FM assignment in Fort Valley and a first local nighttime radio service to the area without adversely affecting other stations and assignments, we are of the belief that it should be adopted and that it would serve the public interest. Therefore we are assigning Channel 292A to Fort Valley by making the required change in the assignment to Douglas from Channel 293 to 294.

17. *RM-1226. Billings, Mont.* Lee Enterprises, Inc., prospective applicant for a new FM station in Billings, Mont., in a petition filed on December 1, 1967, requested the addition of a third FM assignment to Billings, Mont., as follows:

City	Channel No.	
	Present	Proposed
Billings, Mont.	227, 246	227, 246, 253

Billings has a population of 52,851 and its SMSA has a population of 79,016. It has five AM stations, two of which are daytime-only stations, two unlimited-time regional, and one Class IV. Both FM assignments are occupied by the licensees of the daytime-only AM stations.

18. Lee points out that Billings is the second largest city in Montana and that it is twice as large as the next smaller one, that both the city of Billings and its SMSA have grown considerably, that it is an important retail sales, educational, industrial, and cultural center, and that it can support an additional FM station. Lee urges that Great Falls, with only 6,000 more population, has twice the number of FM assignments, that Missoula, with less than half the population of Billings, has one more channel assigned while other cities with less population have as many assignments, and that Billings thus does not have its fair share of available facilities in this regard. For these reasons Lee contends that the proposed addition will be merited and will promote a fair and equitable distribution of FM facilities.

19. The proposed addition of a third FM channel to Billings would be in accord with the criteria used in setting up the FM Table of Assignments and would be comparable with the number made in communities of similar size in the general area. Further, the area is one in which potential FM assignments are not scarce and the market appears to be capable of supporting an additional FM outlet. For these reasons we believe the proposal would serve the public interest and should be adpoted.

20. *RM-1228. McMinnville, Tenn.* On December 4, 1967, Cumberland Valley Broadcasting Corp., licensee of Radio Station WBMC(AM), McMinnville Tenn., filed a petition requesting the assignment of a second Class A channel to McMinnville as follows:

City	Channel No.	
	Present	Proposed
McMinnville, Tenn.	269A	269A, 280A

McMinnville, the county seat and largest community in Warren County (population 23,102), has a population of 9,013. It has two AM stations, one of which is a daytime-only station licensed to the petitioner. The other station is a Class IV.[2] Cumberland submits that McMinnville is an important religious, educational, and trading center in view of its isolation from other communities of significant size, and merits the second assignment.

21. With respect to the area in which Channel 280A would be precluded (it does not appear that there are any significant areas of preclusion on the six adjacent channels), Cumberland states that there are no other communities of any substantial size in the area which do not already have an FM assignment other than Monterey, which has a population of 2,069 persons and is located about 13 miles east of Cookeville, which has two Class A FM assignments. Cumberland urges that this assignment, however, be made to McMinnville in spite of the lack of an assignment in Monterey because of the need for a second assignment in the former and because two assignments are possible on Channel 280A if one is made at McMinnville whereas only one is possible if the assignment is made to Monterey. Petitioner also contends that a "white area" of approximately 134 square miles would be served, but this is based upon the existing facilities only of the stations in the area.

22. George E. LeFevre, prospective applicant for a new FM station in Smithville, Tenn., supports the assignment of Channel 280A to McMinnville but advances a counterproposal to remove Channel 269A from McMinnville and to assign it to Smithville, Tenn., as follows:

City	Channel No.	
	Present	Proposed
McMinnville, Tenn.	269A	280A
Smithville, Tenn.		269A

Smithville has a population of 2,348 persons. It is the county seat and largest community in De Kalb County, population 10,774. There is a daytime-only AM station in the community but no other radio outlet in the county. LeFevre states that Smithville has experienced a great growth and development in recent years, and that it has the usual compliment of schools, businesses, churches, and civic organizations. He submits that the proposal to add Channel 280A as a second FM assignment would give that community four broadcast outlets and urges that Smithville needs its first FM station and local nighttime broadcast service and second local radio station more than McMinnville needs its second FM station, third local nighttime service and fourth local broadcast station. He adds that the proposal could result in the first dual AM-FM operation in that community. With regard to the request switch of Channel 269A to Smithville, rather than 280A, LeFevre asserts that Channel 269A is the only remaining FM channel which can be assigned to it and that such an assignment would serve "white and gray areas".[3] He also states that he is willing to reimburse Harold N. Roney, licensee of Station WHNR on Channel 269A at McMinnville, for the necessary costs of changing frequencies. In a separate comment, Roney supports the LeFevre proposal and agrees to the change in frequency and the amount to be paid for the change, estimated to be no more than $1,000.[4]

23. The proposal of Cumberland would provide a second FM local outlet in McMinnville and a fourth local radio outlet, while the LeFevre proposal would provide the first FM assignment and the second radio outlet in Smithville, one of which is a daytime-only outlet. It would also require an existing station, WHNR, to change frequency but this station concurs in the proposal and agrees to the amount to be paid for the shift. The one point in favor of McMinnville is its larger size; however, each is the county seat and largest community in the respective counties. On balance, we believe

[2] As Cumberland and George E. LeFevre point out the notice stated in error that the licensee of the Class IV AM station and the Class A station on Channel 269A was the same party.

[3] Although these areas are called "substantial" they are based upon the existing facilities of existing stations only and do not take into account the greater facilities permitted under the rules. For instance, Roney states that he will apply for a maximum facility Class A station at McMinnville.

[4] The time for filing comments and reply comments in this proceeding was originally specified as Feb. 12, 1968, and Feb. 27, 1968. In response to a request from LeFevre these dates were extended to Mar. 4, 1968, and Mar. 19, 1968, respectively. The date for filing reply comments was further extended until Mar. 29, 1968, at the request of Cumberland. On Apr. 1, 1968, this party filed a late reply to the LeFevre counterproposal including a further counterproposal which would assign the same channel to Smithville by deleting the sole assignment from Carthage, Tenn., and changing assignments in both Cookeville and McMinnville, both of which are in operation.

Since the interests of orderly procedure require that the procedural requirements of the rules be observed and since the Cumberland counterproposal appears to be without merit and could not be adopted without further rule making in any event, we are not considering it herein.

that the Smithville proposal is to be preferred and would better serve the public interest than would the McMinnville proposal. In making this determination we are particularly concerned with providing the community and surrounding area of Smithville with its first early viding the community and surrounding area of Smithville with its first early morning and nighttime hours radio station. We are also modifying the license of WHNR to specify operation on Channel 280A in lieu of 269A.

24. Authoriy for the adoption of the amendments adopted herein is contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

25. In accordance with the foregoing determinations: *It is ordered,* That effective June 4, 1968, § 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended to read, insofar as the communities named are concerned, as follows:

City	*No. Channel*
Alabama:	
Geneva	228A
Alaska:	
College	284
Arkansas:	
Springdale	285A
Georgia:	
Fort Valley	292A
Douglas	258, 294
Montana:	
Baker	265A
Billings	227, 246, 253
Michigan:	
Zeeland	285A
New York.	
Ellenville	257A
North Carolina:	
Wallace	232A
South Carolina:	
Myrtle Beach	221A, 269A
Tennessee:	
McMinnville	280A
Smithville	269A
Texas:	
Refugio	224A

26. *It is further ordered,* Pursuant to section 316 of the Communications Act of 1934, as amended. That the outstanding license for Station WHNR, held by Harold Nelson Roney, is modified, to specify operation on Channel 280A at McMinnville, Tenn., in lieu of Channel 269A, subject to the following condition:

That the licensee shall submit to the Commission by May 24, 1968, all the technical information normally required for the issuance of a construction permit for operation on Channel 280A, including any changes in antenna and transmission line.

27. *It is further ordered,* Pursuant to section 316 of the Communications Act of 1934, as amended, That the outstanding license for Station KUAC, held by the University of Alaska, is modified, to specify operation on Channel 284 at College, Alaska, in lieu of Channel 285A, subject to the following condition:

That the licensee shall submit to the Commission by May 24, 1968, all the technical information normally required for the issuance of a construction permit for operation on Channel 284, including any changes in antenna and transmission line.

28. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: April 24, 1968.

Released: April 26, 1968.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 68-5228; Filed, Apr. 30, 1968; 8:48 a.m.]

[Docket No. 17969; FCC 68-454]

PART 73—RADIO BROADCAST SERVICES

Availability of FM Channels to Unlisted Communities

Report and order. In the matter of amendment of § 73.203(b) concerning the availability of FM channels to unlisted communities, Docket No. 17969.

1. The Commission has before it for consideration its notice of proposed rule making, FCC 68-65, issued in this proceeding on January 22, 1968, and published in the FEDERAL REGISTER on January 25, 1968, 33 F.R. 917, inviting comments on a proposed amendment of § 73.203(b) of the rules concerning the availability of FM channels to communities not listed in the Table of Assignments, the so-called "25 mile rule". This rule provides that a channel assigned to a community listed in the FM Table of Assignments is available upon application in any unlisted community which is located within 25 miles of the listed community. Proposals to remove a channel to a community further removed than 25 miles require rule making. The time for filing comments expired on March 4, 1968, and for reply comments on March 19, 1968. A limited number of comments were filed in the proceeding.[2]

2. The notice outlined the background of the rule, the manner in which it had operated in the past, and the problems which were created as a result of its application since its adoption in August of 1963, the time the present FM broadcast rules and standards and the FM Table of Assignments were adopted for commercial FM stations. It was pointed out that while in general the rule worked fairly well it had created a number of problems and inequities. Among the problems listed were the following: Multiple channels were removed from larger cities to smaller communities because there was no immediate interest shown in the larger cities; two channels assigned to a community were both removed to a smaller community; applications for more than one such assignment were filed from the same small community, and many channels were removed to communities at such great distances that no satisfactory signal was available to the listed community, especially in the case of Class A channels so removed. We concluded that based upon our past experience with the "25 mile rule", a number of restrictions were necessary in order to remove these inequities and in order to achieve the desired objective of a fair and equitable distribution of available facilities among the various communities and States. As a result it was proposed to amend the rule in a number of respects. First, it was proposed that in the case of a Class B or C channel, the distance of the unlisted community from the reference point in the listed community should be no no more than 15 miles, and in the case of a Class A channel the distance should be a maximum of 10 miles. Secondly, it was proposed that a community should be permitted to apply for only one assignment under the new availability rule. And thirdly, it was proposed that only one channel could be removed from any listed community. In this connection comments were invited on whether this would present problems for potential applicants and whether channels previously removed from a city should be taken into account in enforcing this particular rule. Finally, comments were invited on the question of whether the proposed rule should apply to pending applications as well as applications filed after the adoption of the rule.

3. Less than a dozen comments were filed in the proceeding and the bulk of these were filed by applicants for individual assignments. These parties either favored or opposed the proposed rule depending on whether it would aid or harm their efforts to obtain the authorization sought and several outlined the specific situation in the market involved to justify the position taken. Among the arguments advanced in favor of the more restrictive rule proposed in the notice were that under the present rule there is more likelihood of making unavailable for a listed community the only channel on which a station could be operated there, thus disserving the objectives of the table and section 307 (b) of the Act. It was also argued that as the demand for FM stations increases, there is a greater need to guard against disruption of the basic pattern of channel assignments listed in the table. Also, a Class A channel may be more suitable for a small community than the Class B/C channel available and sought under the present rule. Likewise arguments advanced in favor of having the proposed rule apply to pending applications were that this would correct a situation which is recognized as immediate and that it would assist in making a fair, efficient and equitable allocation procedure.

4. In opposition to the proposal parties urged that the present flexible rule

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[1] Commissioner Loevinger absent.

[2] The parties filing comments are; William O. Barry, Nathan Williams, Cherokee Broadcasting Co., Sunrise Broadcasting Corp., Edward W. Piszczek and Jerome K. Westerfield, Fannin County Broadcasting Co., Inc., Williamson County Broadcasting Co., Inc., Tri-Cities Broadcasting Corp., National Association of Educational Broadcasters, Middle Georgia Broadcasting Co., and Paul E. LeSage.

has served reasonably well, that the proposed restrictions could thwart demand for service where channels remain unused, that a better 307(b) choice can be made under the present rule in a specific hearing proceeding, that it may be the only manner in which a first transmission outlet is possible, and that other corrective measures can be taken to eliminate the inequities in the present rule. Similarly arguments against applying the rule to existing applications were presented. These were that the application of the rule to existing applications would amount to a "freeze", that the number of applications involved with this rule is minimal (estimated to be 26 as of January 1968), that applicants have expended substantial funds in filing the applications, that no broad basic problem is presented in this matter similar to a complete nationwide allocation plan. In one case (Waukegan-Des Plaines, Ill.), it was pointed out that a previous allocation proceeding made a channel available to Des Plaines specifically even though the assignment went to another community.

5. A number of miscellaneous suggestions were also made. One is that Class B/C stations in unlisted communities should propose facilities which would place either a 1 mv/m or a 70 dbu (3.16 mv/m) signal over the city or the center of the city listed in the table. Another suggestion is that if the 15-mile distance is adopted for Class B/C stations, we should permit the city to be more than 15 miles from the listed community provided a site is selected which meets the 15-mile condition to the reference point of the assignment city. One party proposed a 7.5-mile limit for the Class A assignments. The National Association of Educational Broadcasters points out that the reasons which prompted the Commission to issue the subject notice have no special relevance to the operation of educational FM stations and that similar decisions may be unsuitable with respect to an allocation table for such stations. It states further that it assumes that the Commission will devote attention to the unique flexibility needs of educational stations in its deliberations in Docket No. 14185, in which it is proposed to adopt a Table of Assignments for the educational FM band.

6. We have carefully examined the comments filed in this proceeding and conclude that the proposal to tighten up on the "25 mile rule" is merited and would serve the public interest. Our principal concern in this matter is to provide for the most efficient allocation possible and to provide for a fair and equitable distribution of available facilities in the last remaining aural broadcast resource, and one which is fast becoming quite scarce in large portions of the country. While the proposal tightens up the rule in large part, we are not ruling out the possibility of changes in assignments through rule making. The rule making process, while somewhat more time consuming, permits parties to a proceeding and the Commission, to determine the relative merits of conflicting requests including such factors as the availability of other services, availability of other FM channels, areas in which the proposed assignment will be technically feasible, etc. Under the "25 mile rule" a channel could be granted to a community without regard to these factors and to the public interest, except in those cases where a competing application is filed. In some instances the same result may even result from the proposed tighter rule, but under the proposed rule, a service of high technical quality will be available to the people in the listed community. Several parties have suggested that we include a condition concerning either the placement of the transmitter site or by requiring facilities so that a prescribed signal is placed over the community losing the assignment. Since we have specified minimum powers and are limiting the distance to 15 miles for Class B/C stations and 10 miles for Class A stations we do not believe that any additional requirement in this regard is needed.[3]

7. With respect to pending applications and the applicability of the proposed rule to these applications, a recent check indicates that there were only 10 hearing cases or applications to be designated for hearing. Three of these cases are related to previous rule making proceedings in which the issue of an additional assignment or the availability of the channel to another community were in issue. There were in addition 10 other applications, six of which would not qualify under the proposed rule. In view of the relative small number of applications involved, we are of the view that the public interest would best be served by permitting the pending applications to be processed under the present rule and applying the new rule to all applications filed after the effective date of the rule as amended.

8. A suggestion was made that whenever an assignment is made by application to a community under the rule that it be listed in the table. This would preclude the community from utilizing the rule again since it will then be a listed community. It would also be helpful to applicants in making channel studies since under the present procedure the channel remains listed in the table under the original community. However, we are of the view that the present procedure should be retained since the channel should revert to the original community in the event the station is not constructed at the new community or is later deleted. Parties making channel studies should not only look for authorizations outstanding in the listed communities but also in those within 25 miles as well. In order to facilitate this work the Commission will issue a list of assignments made under the subject rule in the future.

9. Authority for the adoption of the amendment adopted herein is contained in section 4 (i) and (j), 303, and 307(b) of the Communications Act of 1934, as amended.

10. In view of the foregoing: *It is ordered*, That effective June 4, 1968, § 73.203(b) is amended to read as follows:

§ 73.203 Availability of channels.

* * * * *

(b) A channel assigned to a community listed in the table of assignments is available upon application in any unlisted community which is located within 10 miles of the listed community if the channel requested is a Class A channel and 15 miles if the channel is a Class B/C channel, provided no other channel in the listed community has been similarly assigned to another community and provided further that the unlisted community has not already removed a channel from any other listed community. Where channels are assigned to two or more communities listed in combination in the table of assignments the provisions of this paragraph shall apply separately to each community so listed. The distance between communities shall be determined by the distance between the respective coordinates thereof as set forth in the publication of the U.S. Department of Commerce entitled "Air Line Distance Between Cities in the United States". (This publication may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.) If said publication does not contain the coordinates of either or both communities, the coordinates of the main post office in either or both of the communities shall be used. The method to be followed in making the measurements is set forth in § 73.208(c).

11. *It is further ordered*, That this proceeding it terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: April 24, 1968.

Released: April 26, 1968.

FEDERAL COMMUNICATIONS COMMISSION,[4]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 68-5227; Filed, Apr. 30, 1968; 8:48 a.m.]

[Docket No. 17967; FCC 68-444]

PART 87—AVIATION SERVICES

Aeronautical En Route Stations in Alaska

Report and order. In the matter of amendment of Part 87 of the Commission's rules to change frequencies available for assignment to the aeronautical

[3] A Class B station with the minimum authorized power (5 kw) and an antenna height of only 250 feet AAT will place a 1 mv/m signal out to a distance of 15 miles. A Class C station with the minimum authorized power (285 kw) and the same antenna height would place a 1 mv/m signal out to a distance of 20 miles. Likewise, a Class A station with a power of only 2 kw and an antenna height of 200 feet AAT will place a 1 mv/m signal out to a distance of 10 miles.

[4] Commissioner Loevinger absent.

en route stations in Alaska, Docket No. 17967.

1. A notice of proposed rule making in the above-captioned matter was released on January 22, 1968, and was published in the FEDERAL REGISTER on January 26, 1968, 33 F.R. 1020. The dates for filing comments and replies thereto have passed.

2. The purpose of the amendment is to provide for the orderly, efficient and timely conversion from the present frequencies, available for assignment to stations in the Aeronautical Mobile (R) Service in Alaska, to those available under the new plan developed by the International Telecommunication Union (ITU) Extraordinary Administrative Radio Conference (EARC), Geneva, 1966 and coordinated worldwide by the ITU and the International Civil Aviation Organization (ICAO).

3. Comments were filed by Aeronautical Radio, Inc. (ARINC), on their own behalf as well as the Air Transport Industry, and by the Federal Aviation Administration. No reply comments were filed.

4. ARINC supported the notice of proposed rule making with two exceptions. They proposed realignment, in the table, of the frequencies 6567 and 6568 in order to coincide with the conversion date of September 17, 1970. They also proposed the inclusion of two additional frequencies (10,057 and 13,280 kHz) in the new plan. These frequencies are allotted on a shared basis with Canada to the Alaskan area. Both of the proposals are correct and acceptable and have been reflected in the attached appendix.

5. The FAA recommended the interchange in the plan of the frequency 5631 kHz for 5547 kHz because of interference on the frequency 5547 kHz from the Chinese mainland. Subsequent monitoring by both FCC and FAA has confirmed this interference. The degree to which this interference can be reduced is uncertain. Since more supplemental frequencies would be available under the interchange proposed to mitigate the effects of the interference in the central chain and feeders group of frequencies than in the FAA shared southern chain and feeders group of frequencies the FAA proposal is being adopted.

6. In view of the foregoing: *It is ordered*, That, pursuant to the authority contained in sections 4(i) and 303 (c), (h), and (r) of the Communications Act of 1934, as amended, Part 87 of the Commission's rules is amended effective June 4, 1968, as set forth below.

7. *It is further ordered*, That the proceeding in Docket No. 17967 is terminated.

(Secs. 4, 303, 48 Stat., as amended 1066, 1082; 47 U.S.C. 154, 303)

Adopted: April 24, 1968.

Released: April 26, 1968.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[1] Commissioner Loevinger absent.

Section 87.297 is amended to read as follows:

§ 87.297 Alaska.

(a) The following frequencies are available for assignment to aeronautical en route stations in Alaska. The provisions of § 87.291(b) do not apply to stations operating on frequencies in accordance with this paragraph.

Frequencies available before conversion date (kc/s)	Frequencies available after conversion date (kc/s)	Conversion date
3411.5	3411 [1] 4696	[2] Sept. 19, 1968
4668.5	4668	[2] Sept. 17, 1970

[1] Daytime only.
[2] 0001 Greenwich mean time.

(b) The following frequencies are available for assignment to aeronautical en route stations in Alaska, only when serving scheduled air carriers as defined by the Civil Aeronautics Board. In filing an application for the use of these frequencies, the applicant must show that in addition to complying with the provisions of § 87.291 the station will provide communications only along the routes served by the scheduled operations of such carriers.

(1) *Alaska Aleutian chain and feeders.*

Frequencies available before conversion date (kc/s)	Frequencies available after conversion date (kc/s)	Conversion date
2945	2924 6568	[1] Sept. 17, 1970
6567	3446	[1] Sept. 19, 1968
11328	11295 11319 10057	[1] Sept. 18, 1969

[1] 0001 Greenwich mean time.

(2) *Central Alaska chain and feeders (west of 141° W. longitude).*

Frequencies available before conversion date (kc/s)	Frequencies available after conversion date (kc/s)	Conversion date
2945 5611.5	2924 5631 6617	[1] Sept. 17, 1970
	3481	[1] Sept. 19, 1968

[1] 0001 Greenwich mean time.

(3) *Southeastern Alaska chain and feeders (east of 141° W. longitude).*

The following frequencies are available for assignment (power on the frequency 2910 kc/s in Alaska is limited to 325 watts; however, powers in excess of 325 watts may be authorized provided that an adequate showing is made that such additional power is required and that harmful interference will not be caused to any service or any station which in the discretion of the Commission may be entitled to protection):

Frequencies available before conversion date (kc/s)	Frequencies available after conversion date (kc/s)	Conversion date
2910	[1] 2875	[2] Sept. 19, 1968
6567	6568 10041	[1] Sept. 17, 1970 [2] Sept. 18, 1969

[1] Daytime only.
[2] 0001 Greenwich mean time.

(c) The following frequencies are shared with the Federal Aviation Administration and are available for licensing by the Commission subject to the provisions of paragraph (b) of this section at locations where an applicant justifies the need for service and the Government is not prepared to render this service:

Frequencies available before conversion date (kc/s)	Frequencies available after conversion date (kc/s)	Conversion date
2931 5544	2861 5547	[1] Sept. 17, 1970

[1] 0001 Greenwich mean time.

Section 87.307 is amended to read as follows:

§ 87.307 United States-Alaska, via Canada.

Frequencies available for assignment to serve the United States-Alaska, via Canada, air routes are:

Frequencies available before conversion date (kc/s)	Frequencies available after conversion date (kc/s)	Conversion date
2973	[1] 2987	[2] Sept. 19, 1968.
5499 8871	5454 8868 8917 8924	[2] Sept. 17, 1970.
11356.5	11359 11383 13280	[2] Sept. 18, 1969.

[1] East of 180° only.
[2] 0001 Greenwich mean time.

[F.R. Doc. 68-5229; Filed, Apr. 30, 1968; 8:49 a.m.]

[FCC 68-441]

PART 91—INDUSTRIAL RADIO SERVICES

Interim Basic Petroleum and Gas Industry Communications Emergency Plan

In the matter of revision of the interim basic petroleum and gas industry communications emergency plan for emergency operation pursuant to Executive Order 11092, and amendment of Part 91 of the Commission's rules.

The Commission has under consideration a formal recommendation of the National Industry Advisory Committee (NIAC), which was submitted February 2, 1968, for minor revisions of the INTERIM Basic Petroleum and Gas Industry Communications Emergency Plan

(PAGICEP) for operation during emergencies, heretofore adopted by the Commission on August 17, 1966.

Executive Order 11092 places upon the Commission various functions including the development of plans and procedures covering authorization, operation and use of Safety and Special Radio Services facilities and personnel in the national interest in an emergency.

The adoption of the minor revisions to the INTERIM Basic PAGICEP will clarify the intent thereof and permit work to progress on development of detailed regional and local emergency plans.

Part 91 of the Commission's rules should be amended to include these revisions of the INTERIM Basic Plan.

For the purpose of national defense, notice and public procedure would be contrary to the public interest; and, therefore, the prior notice and effective date provisions of 5 U.S.C. 553 are inapplicable.

It is ordered, Pursuant to sections 4(i), 606(c), and 606(d) of the Communications Act of 1934, as amended, and Executive Order 11092, that the revised INTERIM Basic Petroleum and Gas Industry Communications Plan, corrected to January 1968, is approved, and

It is further ordered, That, effective May 3, 1968, Part 91 of the Commission's rules is amended as set forth below.

(Secs. 4, 606, 48 Stat., as amended, 1066, 1104; 47 U.S.C. 154, 606, and E.O. 11092 of Feb. 26, 1963)

Adopted: April 24, 1968.

Released: April 26, 1968.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

Part 91 of Chapter I of Title 47 of the Code of Federal Regulations is amended as set forth below.

1. Section 91.161 is added to Subpart D to read as follows:

§ 91.161 Industrial radio services emergency operation.

(a) *Scope and objective*. This section applies to those stations licensed under this part and operating in a system for which a National Defense Emergency Authorization has been issued. The section provides for operation of stations within the United States during a national emergency or any emergency condition constituting a threat to national security or to the safety of life and property. The objective is to provide for flexible operation of communications equipment during such an emergency to fulfill national and local security requirements and to accommodate vital industrial and governmental communications.

(b) *National Defense Emergency Authorization*. A National Defense Emergency Authorization will be issued on a system basis by the Commission to those licensees who are engaged in industrial activities for which an approved National Industry Advisory Committee Emergency Plan has been adopted: *Provided*, That the licensee has submitted to the Commission a certification of willingness to participate in and conform to the emergency communications plan applicable to his stations and licensed under this part for which coverage is desired and has certified thereon a willingness to interconnect facilities where necessary with those of similar licensees and to cooperate with such licensees in providing emergency communications. Once issued, a National Defense Emergency Authorization is effective for each station in the system concurrently with the regular license for that station. A National Defense Emergency Authorization may be terminated by the Commission upon a finding that, for any reason, the facilities are no longer capable of providing effective emergency communications in accordance with the National Industry Advisory Committee Emergency Plan concerned.

(c) *Period of emergency operation*. Operation in accordance with the provisions of this section is to become automatically effective in accordance with the following:

(1) National emergency condition—Operation to extend from the time of emergency action notification to the time of termination of emergency action condition.

(2) On direction of appropriate Federal authority—Operation to be in accordance with Federal action. In this case the licensee shall notify the FCC Regional Liaison Officer of the beginning of emergency operation.

(3) Area or local emergency—In this case the licensee shall notify the FCC Regional Liaison Officer of the emergency condition and specify an estimated time period, not to exceed 2 weeks, for the emergency operation. An area or local emergency requiring operation under the provisions of this section for a period in excess of 2 weeks will require an authorization from the Commission's Washington office.

(d) *Authorized operation PAGICEP*. Over and above the permissive provisions of all applicable rules and not withstanding any provisions of this chapter, or license restrictions to the contrary, systems covered by a National Defense Emergency Authorization and operated by licensees participating in the Petroleum and Gas Industry Communications Emergency Plan (PAGICEP) are authorized to operate in accordance with the provisions of this paragraph under the emergency conditions and for the periods of time specified above:

(1) To share facilities with, or interconnect with, any other communications facilities necessary to accomplish the petroleum industry's communications requirements where such sharing and/or interconnection is mutually acceptable.

(2) To use mobile frequencies to provide point-to-point services and to effect tie-ins between established fixed services.

(3) To use any type of modulation, including multiplex, so long as the occupied bandwidth does not exceed that normally authorized on the frequency involved, and to use any operating power not exceeding the maximum specified under Part 91, subject to mutual resolution of any resulting interference.

(4) To periodically test any facility established solely for emergency use under this section.

§ 91.306 [Deleted]

2. Section 91.306 is deleted in its entirety.

[F.R. Doc. 68-5230; Filed, Apr. 30, 1968; 8:49 a.m.]

[1] Commissioner Loevinger absent.

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Certain Wildlife Refuges and Ranges in Montana

The following special regulations are issued and are effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

General conditions. Fishing shall be in accordance with applicable State regulations except for special conditions listed.

All areas open to fishing are designated by signs and delineated on a map available at the respective refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 730 Northeast Pacific Street, Portland, Oreg. 97208.

MONTANA

CHARLES M. RUSSELL NATIONAL WILDLIFE RANGE

Charles M. Russell National Wildlife Range, Post Office Box 110, Lewistown, Mont. 59457.

Sport fishing is permitted year-round in the Missouri and Musselshell Rivers and Fort Peck Reservoir.

MEDICINE LAKE NATIONAL WILDLIFE REFUGE

Medicine Lake National Wildlife Refuge, Medicine Lake, Mont. 59247.

Sport fishing is permitted only on the area designated by signs as open to fishing. This area comprises 750 acres in the west end of Medicine Lake.

NATIONAL BISON RANGE

National Bison Range, Moiese, Mont. 59824.

Sport fishing is permitted only on the Jocko River south of the Big Game Fence.

NINEPIPE NATIONAL WILDLIFE REFUGE

Ninepipe National Wildlife Refuge (Headquarters: National Bison Range, Moiese, Mont. 59824).

Sport fishing is permited on Ninepipe Reservoir as posted.

Special conditions:

1. All islands are closed to fishing or trespass.

2. No ice fishing shelters may be left overnight.

PABLO NATIONAL WILDLIFE REFUGE

Pablo National Wildlife Refuge (Headquarters: National Bison Range, Moiese, Mont. 59824).

Sport fishing is permitted on Pablo Reservoir as posted.

Special conditions:

1. All islands are closed to fishing or trespass.

2. No ice fishing shelters may be left overnight.

PISHKUN NATIONAL WILDLIFE REFUGE

Pishkun National Wildlife Refuge (Headquarters: Benton Lake Refuge, Post Office Box 2624, Great Falls, Mont. 59401).

Sport fishing is permitted the entire year on Pishkun Reservoir.

Special condition: Boats are prohibited on the West Lake of Pishkun Reservoir.

RAVALLI NATIONAL WILDLIFE REFUGE

Ravalli National Wildlife Refuge, No. 5 Third Street, Stevensville, Mont. 59870.

Sport fishing is permitted on the east bank and islands of the Bitterroot River which borders the refuge for approximately 2¾ miles.

RED ROCK LAKES NATIONAL WILDLIFE REFUGE

Red Rock Lakes National Wildlife Refuge, Monida, Mont. 59744.

Sport fishing is permitted as posted from June 16 through November 30, 1968. Areas closed entire year: Upper and Lower Red Rock Lakes; Swan Lake; Red Rock River between Upper and Lower Red Rock Lakes; Shambow Pond; and all waters within 100 yards of these areas.

Special condition: Boats with motors are prohibited.

WILLOW CREEK NATIONAL WILDLIFE REFUGE

Willow Creek National Wildlife Refuge (Headquarters: Benton Lake Refuge, Post Office Box 2624, Great Falls, Mont. 59401).

Sport fishing is permitted the entire year on Willow Creek Reservoir.

The provisions of these special regulations supplement the regulations which govern fishing on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through April 30, 1969.

HENRY BAETKEY,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

APRIL 23, 1966.

[F.R. Doc. 68-5190; Filed, Apr. 30, 1968; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 7]

DINOSAUR NATIONAL MONUMENT, COLO.-UTAH

Revision of Special Regulations—Boating, Commercial Hauling

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916, 245 DM-1 (27 F.R. 6395), National Park Service Order No. 34 (31 F.R. 4255), Regional Director, Midwest Region Order No. 4 (31 F.R. 5769), as amended, it is proposed to revise § 7.63 of Title 36 of the Code of Federal Regulations as set forth below.

The purpose of this revision is to eliminate the Special Regulation on boating that is now covered in the General Regulations and to provide for the commercial use of certain park roads by local ranchers.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections to the Superintendent, Dinosaur National Monument, Dinosaur, Colo. 81610, within 30 days of the publication of this notice in the FEDERAL REGISTER.

(5 U.S.C. 553; 39 Stat. 535; 16 U.S.C. 3)

THEODORE R. THOMPSON,
Superintendent,
Dinosaur National Monument.

Paragraph (a) of § 7.63 of Title 36, Code of Federal Regulations is revised to read as follows:

§ 7.63 Dinosaur National Monument.

(a) *Commercial hauling.* Ranchers and stockmen owning, leasing or renting private lands, or holding grazing permits issued by the Bureau of Land Management on designated grazing allotments adjacent to the Artesia Entrance Road, Blue Mountain Road, and Deerlodge Park Road, are authorized to use these roads for trucking or hauling ranching and agricultural supplies and materials, including livestock, for use in normal ranching and stock growing operations.

* * * * *

[F.R. Doc. 68-5194; Filed, Apr. 30, 1968; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 908]

HANDLING OF VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Notice of Proposed Rule Making With Respect to Expenses and Rate of Assessment for 1967–68 Fiscal Year

Consideration is being given to the following proposals submitted by the Valencia Orange Administrative Committee, established under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(1) That the expenses that are reasonable and likely to be incurred by the Valencia Orange Administrative Committee during the period from November 1, 1967, through October 31, 1968, will amount to $255,000 and (2) that there be fixed, at $0.02 per carton of oranges, the rate of assessment payable by each handler in accordance with § 908.41 of the aforesaid marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file same in quadruplicate with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: April 26, 1968.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 68-5199; Filed, Apr. 30, 1968; 8:46 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 53]

TOMATO CATSUP

Identity Standard; Proposed Deletion of Restrictions on Use of Dextrose, Corn Sirup, and Glucose Sirup as Sweetening Ingredients

Notice is given that a petition has been filed by P. J. Ritter Co., Bridgeton, N.J. 08302, proposing that the standard of identity for catsup (21 CFR 53.10) be amended to delete the requirement that dextrose may be used only in a mixture with sugar and to remove the provision limiting the proportion of corn sirup and glucose sirup that may be used when the solids of such corn sirup and glucose sirup contain a minimum of 58 percent by weight of reducing sugars calculated as anhydrous dextrose. The petitioner did not include in his proposal a provision for label declaration of the sweetener or sweeteners used.

Information submitted by the petitioner in support of the proposal includes test results showing that catsup made with corn sirup containing more than 58 percent by weight of reducing sugars calculated as anhydrous dextrose, without regard to any proportional limitation, resulted in a catsup of acceptable quality when compared to catsup made in conformity to the present restrictions. In regard to the proposed deletion of the restriction on the use of dextrose the petitioner asserts that since these provisions do not fix any ratio for the required mixture of sugar and dextrose and since no basis for establishing such a ratio exists, this requirement is altogether theoretical and meaningless and therefore should be eliminated.

Accordingly, it is proposed that § 53.10 be amended by revising the closing text of paragraph (a) that follows subparagraph (3) to read as follows:

§ 53.10 Catsup, ketchup, catchup; identity; label statement of optional ingredients.

(a) * * *
(3) * * *

Such liquid is obtained by so straining such tomatoes or residue, with or without heating, as to exclude skins, seeds,

and other coarse or hard substances. It is concentrated and seasoned with salt, a vinegar or vinegars, spices or flavorings or both, and onions or garlic or both and is sweetened with sugar, or dextrose, or corn sirup (including dried corn sirup) or glucose sirup (including dried glucose) or any mixture of these; provided that when the solids of corn sirup, or dried corn sirup, or glucose sirup, or dried glucose sirup (or any combination of these) used contains less than 58 percent by weight of reducing sugars calculated as anhydrous dextrose, then such corn sirup or glucose sirup shall be mixed with sugar or dextrose or both, in such quantity that the weight of the solids of such corn sirup or dried corn sirup or both, or glucose sirup, or dried glucose sirup or both, is not more than one-third of the weight of the solids of such mixture. When sealed in a container it is so processed by heat, before or after sealing, as to prevent spoilage.

* * * * *

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), all interested persons are invited to submit their views in writing (preferably in quintuplicate) regarding this proposal within 60 days following the date of publication of this notice in the FEDERAL REGISTER. Such views and comments should be addressed to the Hearing Clerk Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, and may be accompanied by a memorandum or brief in support thereof.

Dated: April 24, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-5224; Filed, Apr. 30, 1968; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 18138; FCC 68-468]

CLASS IV AM STATIONS

Prohibited Overlap of Pertinent Contours

In the matter of amendment of § 73.37 of the rules governing prohibited overlap of pertinent contours of Class IV AM stations, Docket No. 18138.

1. The Commission has under consideration the procedures outlined in § 73.37 of its rules governing minimum separation between Class IV AM broadcast stations and prohibited overlap of pertinent contours.

2. When the rules were amended to permit increased daytime power by Class IV stations, it was expected that if all then existing Class IV stations increased power equally, there would be no increases in interference involved. To facilitate these power increases, when our "go-no go" rules (the present § 73.37) were adopted, paragraph (d) was added. It provides that existing Class IV stations operating with 250 watts may be authorized to increase power to 1,000 watts without regard to the restrictive provisions of the "go-no-go" rules concerning prohibited overlap of contours (paragraph (d) of § 73.37). Although applicants for new Class IV facilities with 250 watts must establish compliance with paragraph (a),[1] once authorized at 250 watts, they may then file a second application to obtain a daytime power of 1,000 watts under the provisions of paragraph (d).

3. We believe it would be appropriate to consider alternatives to this present rule. If the present policy with respect to new Class IV facilities is to be continued, we believe the requirement for two consecutive applications or a request for waiver with the first application requesting a daytime power of 500 or 1,000 watts places an unnecessary burden on the applicant and should be changed to permit the filing of a single application without an accompanying waiver request. This could be accomplished by substituting the following for paragraph (c) of § 73.37:

(c) In determining the acceptability for filing of an application for a new Class IV station with daytime power of 250 watts or greater, prohibited overlap of pertinent contours caused or received with other Class IV stations will be considered on the basis that the proposed station and all other Class IV stations operate with 250 watts power and nondirectional antennas. The provisions of paragraph (b) of this section shall be applied to applications for new Class IV stations using the assumptions mentioned in this paragraph for determining overlap received.

4. It should be noted in passing that this rewording of present § 73.37(c) is different in two very important aspects. First, it speaks in terms of acceptability for filing and second, it concerns overlap of contours caused or received. The intent contained in this proposal is that applications for new 250-watt Class IV stations would be accepted for filing if overlap of contours would occur with the one kilowatt contours of an existing Class IV station, provided no overlap would occur with the 250-watt contours of that station, and the application would be available for grant, if no other problems are involved.

[1] Paragraph (a) sets forth the basic "go-no go" criteria; however, with respect to overlap received, new Class IV proposals are considered on the assumption that "both the proposed operation and all existing Class IV stations operate with 250 watts and utilize nondirectional antennas." See section 73.37(c).

5. In the alternative, we believe that the time may have now arrived to consider the advisability of requiring all Class IV stations, whether new or increasing power, to comply fully with the "go-no go" rules. The great majority of the Class IV stations which were in existence when the rules were changed to permit the use of 1 kilowatt daytime power by 250-watt stations and 500 watts daytime power by 100-watt stations have actually increased power daytime. Only six 100-watt stations and 147 250-watt stations out of a total of approximately 1,000 Class IV stations have not yet increased power, and many of these have been unable to do so for personal or technical reasons. There would no longer appear to be any logical reason, therefore, to single out the Class IV frequencies for additional increments of interference, simply because of the anomaly in our present rules which permits existing Class IV stations to increase power daytime without regard to the "go-no go" rules, and new Class IV stations to be established on the basis of an assumption that all existing Class IV stations are operating at 250 watts daytime, even though almost 90 percent of them are actually operating with 1,000 watts daytime. This change in the rules could be accomplished simply by deleting paragraphs (c) and (d) of § 73.37.

6. If the rule is changed as indicated in the preceding paragraph, we would propose to provide for an interim period during which those existing Class IV stations which have not increased daytime power, would be allowed to file applications to increase power under the present rules. This could be accomplished by adding a note to § 73.37 to such effect. We recognize, also, that some Class IV stations have been prohibited from increasing daytime power because of international agreements (see § 73.21(c)). For these stations, we will consider requests for waiver of § 73.37, if necessary, when and if the international restrictions are removed.

7. In view of the alternative nature of the above proposals we adopt this notice of proposed rule making suggesting either of the above proposals or a suitable combination of the two.

8. The amendments proposed herein are issued pursuant to authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

9. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules, interested persons may file comments on or before June 24, 1968, and reply comments on or before July 24, 1968. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

10. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all comments, replies, pleadings,

briefs, and other documents shall be furnished the Commission.

Adopted: April 24, 1968.

Released: April 26, 1968.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 68-5231; Filed, Apr. 30, 1968; 8:49 a.m.]

[47 CFR Part 73]

[Docket No. 18023; FCC 68-456]

PRESUNRISE SERVICE AUTHORITY

Adjustment to 6 a.m. Local Time

In the matter of amendment of § 73.99 of the Commission's rules (Presunrise Service Authority) to specify 6 a.m. "local time," Docket No. 18023.

1. In the notice initiating this proceeding (FCC 68-165, adopted February 14, 1968), we proposed that the 6 a.m. PSA sign-on provided in § 73.99 of the rules be adjusted to "local" time in place of "standard" (year-around nonadvanced) time. If adopted, this adjustment would enable most of the 1,400 standard broadcast stations holding PSA's to observe a year-around 6 a.m. sign-on geared to the listening habits of the community. The proposal is contingent upon revision of the recently concluded United States-Canadian presunrise agreement (TIAS-6268).

2. An awkward problem arises this year because, unlike last year, the last Sunday of April (April 28, the date on which the national shift to advanced time will occur) does not coincide with the end of the month. Hence, absent further Commission action, stations holding PSA's would, on April 28, 29, and 30, be precluded from operating thereunder until 7 a.m. local time.

3. Although a formal exchange of notes with Canada on this subject has not yet occurred, Canadian officials have informally indicated that there would be no objection to staying the provisions of section 73.99 for the last 3 days of April in order to avoid widespread disruption of standard broadcast program schedules in the United States. The seasonal trend toward longer days will substantially alleviate the problem by May 1, when many stations will be able to operate with their full licensed daytime facilities at 6:15 a.m. or 6:30 a.m., local time.

4. As indicated in the notice of proposed rule making, adjustment of the 6 a.m. PSA sign-on to year-around local time would not, except at a few southern locations, create skywave interference problems beyond those existing in January under presently authorized PSA operations. It follows that a short-term adjustment would create no further problems.

5. In view of the foregoing, and numerous informal waiver requests by daytime only stations, the provisions of § 73.99 of the rules are stayed to the extent of permitting a 6 a.m. local (advanced) time sign-on by PSA holders on April 28, 29, and 30, 1968, subject to the following conditions:

(a) Stations benefiting from this order shall on May 1, 1968, revert to the observance of nonadvanced time, whether operating under a PSA or under the terms of the station license, such observance to continue until the effective date of the final decision in this proceeding.

(b) The sign-on practices of Class II PSA holders shall continue to be regulated by the nonadvanced sunrise times at dominant station locations to which their early morning operations are keyed, if later than 6 a.m., local time at the Class II station location.

(c) The term "PSA holder" as used in this order is understood to include, in addition to regular PSA holders, those stations holding temporary pre-sunrise operating authority in excess of 500 watts, issued pursuant to the interim order of the Second Circuit U.S. Court of Appeals, New York City, on November 13, 1967.

Adopted: April 24, 1968.

Released: April 26, 1968.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 68-5232; Filed, Apr. 30, 1968; 8:49 a.m.]

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[1] Commissioner Loevinger absent.

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 68-120]

TUNA FISH

Tariff-Rate Quota for 1968

APRIL 25, 1968.

Pursuant to the provisions of item 112.30, Tariff Schedules of the United States, it has been determined that 66,-985,048 pounds of tuna may be entered for consumption or withdrawn from warehouse for consumption during the calendar year 1968 at the rate of 11 per centum ad valorem under item 112.30. Any such tuna which is entered, or withdrawn from warehouse, for consumption during the current calendar year in excess of this quota will be dutiable at the rate of 22 per centum ad valorem under item 112.34 of the tariff schedules.

The above quota is based on the United States pack of canned tuna during the calendar year 1967, as reported by the U.S. Fish and Wildlife Service.

EDWIN F. RAINS,
Acting Commissioner of Customs.

[F.R. Doc. 68-5216; Filed, Apr. 30, 1968; 8:47 a.m.]

Fiscal Service

[Dept. Circ. 570, 1967 Rev., Supp. No. 11]

CONSTELLATION REINSURANCE CO.

Change of Name From Constellation Insurance Co.

Constellation Insurance Co., New York, N.Y., a New York corporation, has formally changed its name to Constellation Reinsurance Co., effective December 29, 1967. A copy of the Charter, as amended, of Constellation Insurance Co. approved by the Insurance Department of the State of New York on December 29, 1967, changing the name of Constellation Insurance Co. to Constellation Reinsurance Co., has been received and filed in the Treasury.

A new certificate of authority as an acceptable reinsuring company only on Federal bonds, dated December 29, 1967, has been issued by the Secretary of the Treasury to the Constellation Reinsurance Co., New York, N.Y., pursuant to Treasury Department Circular No. 297, dated July 5, 1922, as amended, 31 CFR Part 223, to replace the certificate issued June 1, 1967, to the company under its former name, Constellation Insurance Co. The underwriting limitation of $957,-000 previously established for the company remains unchanged.

The change in name of Constellation Insurance Co. does not affect its status or liability with respect to any obligation in favor of the United States or in which the United States has an interest, which it may have undertaken pursuant to the certificate of authority issued by the Secretary of the Treasury.

Certificates of authority expire on May 31 each year, unless sooner revoked and new certificates are issued on June 1, so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of June 1, in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact fidelity and surety business and other information. Copies of the circular, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Audit Staff, Washington, D.C. 20226.

Dated: April 24, 1968.

JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[F.R. Doc. 68-5217; Filed, Apr. 30, 1968; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Oregon 016197]

OREGON

Order Providing for Opening of Public Lands

Correction

In F.R. Doc. 68-4006 appearing at page 5374 of the issue for Thursday, April 4, 1968, the land description for sec. 30 under T. 13 S., R. 45 E., should read "Sec. 30, SE¼, S½NE¼, NE¼NE¼".

[S. 1262, S. 1263]

CALIFORNIA

Notice of Classification of Public Lands for Multiple Use Management

APRIL 23, 1968.

1. Pursuant to the Act of September 19, 1964 (78 Stat. 986; 43 U.S.C. 1411-18) and to the regulations in 43 CFR, Parts 2410 and 2411, the public lands within the area described below are classified for multiple use together with any lands therein that may become public lands in the future. Publication of this notice has the effect of segregating (a) all public lands described below from appropriation only under the agricultural land laws (43 U.S.C., Chs. 7 and 9; 25 U.S.C., sec. 334) and from sale under section 2455 of the revised statutes (43 U.S.C. 1171) and (b) the lands described in paragraph 4 from appropriation under the mining laws (30 U.S.C., Ch. 2). The lands shall remain open to all other applicable forms of appropriation. As used herein, "public lands" mean any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269) as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. No adverse comments were received following publication of a Notice of Proposed Classification in the FEDERAL REGISTER (33 F.R. 2719 of Feb. 8, 1968) or at the public hearing held in Chico, Calif., on March 7, 1968. The record showing the comments received and other information is on file and can be examined in the Redding District Office, Redding, Calif.

3. The public lands are located within Tehama and Butte Counties and include the Feather River and Yolla Bolly Planning Units. For the purpose of this classification, the lands within each planning unit have been subdivided into blocks. Each block has been analyzed in detail and described in documents and on maps available for inspection at the Redding District Office, Bureau of Land Management, 2460 Athens Avenue, Redding, Calif. 96001, and on the records in the Sacramento Land Office, 650 Capitol Mall, Sacramento, Calif. 95814. The overall description of the areas are as follows:

YOLLA BOLLY PLANNING UNIT (S 1262)—TEHAMA COUNTY

MOUNT DIABLO MERIDIAN, CALIFORNIA

Block I

All public lands in:

T. 25 N., R. 6 W.,
Sec. 30.
T. 23 N., R. 7 W.,
Secs. 2, 3, 10, 11, 12, and 14.
T. 24 N., R. 7 W.,
Secs. 2, 3, 4, 10, 11, 12, 14, 15, 22, 23, 26, 27, 34, and 35.
T. 25 N., R. 7 W.,
Secs. 2, 3, 4, 10, 11, 14, 15, 22, and 23;
Secs. 25 to 28, inclusive;
Secs. 33, 34, and 35.
T. 26N., R. 7 W.,
Secs. 2 to 11, inclusive;
Secs. 14 to 24, inclusive;
Secs. 26 to 35, inclusive.
T. 27 N., R. 7 W.,
Secs. 18 and 32.
T. 26 N., R. 8 W.,
Secs. 1 and 2;
Secs. 8 to 27, inclusive;
Secs. 31 to 36, inclusive.
T. 27 N., R. 9 W.,
Secs. 4 to 10, inclusive;
Secs. 13 to 27, inclusive;
Secs. 34, 35, and 36.
T. 28 N., R. 8 W.,
Sec. 32.
T. 27, N., R. 9 W.,
Secs. 1, 12, 13, and 24.
T. 28 N., R. 9 W.,
Secs. 22, 26, 27, 28, 33, 34, and 35.

Block II

All public lands in:

T. 24 N., R. 2 W.,
Secs. 3 and 10.

FEATHER RIVER PLANNING UNIT (S 1263)—TEHAMA AND BUTTE COUNTIES

MOUNT DIABLO MERIDIAN, CALIFORNIA

Block I

All public lands in:

T. 28 N., R. 2 W.,
Secs. 4 to 8, inclusive;
Secs. 17 to 20, inclusive;
Sec. 30.
T. 29 N., R. 2 W.,
Secs. 6, 7, and 8;
Secs. 17 to 20, inclusive;
Secs. 29 to 32, inclusive.
T. 28 N., R. 3 W.,
Secs. 1, 12, 13, and 14;
Secs. 23 to 26, inclusive.
T. 29 N., R. 3 W.,
Secs. 12 and 13;
Secs. 23 to 26, inclusive;
Sec. 36.

Block II

All public lands in:

T. 29 N., R. 1 E.,
Secs. 1, 2, 3, 11, 12, 13, and 24.
T. 29 N., R. 2 E.,
Secs. 6, 7, 18, 19, and 20.

Block III

All public lands in:

T. 23 N., R. 2 E.,
Secs. 24, 25, and 26.
T. 22 N., R. 3 E.,
Secs. 1 to 5, inclusive;
Sec. 8.
T. 23 N., R. 3 E.,
Secs. 3, 4, 8, 9, and 10;
Secs. 15 to 22, inclusive;
Secs. 27 and 28;
Secs. 32 to 36, inclusive.
T. 24 N., R. 3 E.,
Sec. 8;
Secs. 17 to 24, inclusive;
Secs. 26 to 30, inclusive;
Secs. 32, 33, and 34.
T. 21 N., R. 4 E.,
Secs. 4, 5, and 6.
T. 22 N., R. 4 E.,
Secs. 6, 7, and 8;
Secs. 17 to 20, inclusive;
Secs. 28 to 33, inclusive.

Except for the public lands in:

T. 22 N., R. 3 E.,
Sec. 3, NE¼NE¼, SE¼SW¼.
T. 23 N., R. 3 E.,
Sec. 20, SW¼NE¼.

Block IV

All public lands in:

T. 19 N., R. 5 E.,
Secs. 1 to 6, inclusive;
Sec. 10.
T. 20 N., R. 5 E.,
Secs. 1, 12, and 13;
Secs. 20 to 29, inclusive;
Secs. 32 to 36, inclusive.
T. 19 N., R. 6 E.,
Sec. 6.
T. 20 N., R. 6 E.,
Secs. 4 to 8, inclusive;
Secs. 17 to 20, inclusive;
Secs. 28 to 31, inclusive.

Block V

All public lands in:

T. 25 N., R. 1 E.,
Sec. 14.
T. 22 N., R. 2 E.,
Sec. 36, NE¼NE¼, S½NE¼.
T. 24 N., R. 2 E.,
Secs. 2, 10, and 22.
T. 24 N., R. 4 E.,
Sec. 34.
T. 29 N., R. 1 W.,
Sec. 28.
T. 27 N., R. 2 W.,
Secs. 4 and 8.

The public lands being classified aggregate approximately 24,400 acres in the Yolla Bolly Planning Unit, and 14,955 acres in the Feather River Planning Unit.

4. As provided in Paragraph 1 above, the following lands are further segregated from appropriation under the mining laws (totaling approximately 200 acres):

MOUNT DIABLO MERIDIAN

T. 25 N., R. 1 E.,
Sec. 14, NW¼NE¼, NW¼.

5. For a period of 30 days from the date of publication in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided in 43 CFR 2411.2(c).

E. J. PETERSEN,
Acting State Director.

[F.R. Doc. 68-5193; Filed, Apr. 30, 1968; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Forest Service

DEPUTY CHIEF AND ASSOCIATE DEPUTY CHIEF, NATIONAL FOREST SYSTEM

Timber; Appointment of Debarring Officers

Pursuant to authority delegated to me in Title 41, Code of Federal Regulations § 4-1.601-1, I appoint the Deputy Chief, National Forest System and the Associate Deputy Chief, Resource Divisions, National Forest System, as Forest Service Debarring Officers for timber sales transactions pursuant to 16 U.S.C. 476.

This appointment is effective on publication in the FEDERAL REGISTER.

Dated: April 19, 1968.

EDWARD P. CLIFF,
Chief, Forest Service.

[F.R. Doc. 68-5200; Filed, Apr. 30, 1968; 8:46 a.m.]

TIMBER

Amended Policy Statement for Grays Harbor Federal Sustained Yield Unit, 1968

I. *General objectives.* The purpose of the Act of March 29, 1944 (58 Stat. 132; 16 U.S.C. 583-583i), is to stabilize communities, forest industries, employment, and taxable forest wealth; to assure a continuous and ample supply of forest products; and to secure the benefits of the forest in the regulation of water supply and stream flow, prevention of soil erosion, amelioration of climate, and preservation of wildlife.

This policy statement is designed to facilitate the accomplishment of these purposes, and to achieve the objective of harvesting annually the full allowable sustained yield production from the Grays Harbor Federal Sustained Yield Unit established by the Chief, Forest Service, on November 2, 1949,[1] and amended August 29, 1952, and amended March 15, 1968, hereinafter called the Unit.

Applicable provisions to effectuate this policy statement will be included, as conditions of sale, in timber sale contracts covering National Forest timber in the Unit.

II. *Limits of zone of primary manufacture.* All timber and forest products sold from National Forest lands within the Unit, except as otherwise provided, will be required to be given at least primary manufacture within the Unit or Grays Harbor County, State of Washington, except secs. 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, T. 18 N., R. 5 W., W.M.; and secs. 5, 6, 7, 8, 17, 18, 19, 20, T. 18 N., R. 4 W., W.M.; hereinafter called the Grays Harbor Area.

Any purchaser of National Forest timber from the Unit who is unable to find a market or receive a fair price within the Grays Harbor Area for any raw forest products removed from National Forest lands may, upon establishing this fact to the satisfaction of the Regional Forester, receive special authorization to market such products elsewhere.

III. *Definition of primary manufacture.* The term "primary manufacture" as used herein shall be considered to have been accomplished when, as a minimum:

A. In sawmills, logs have been cut into rough green lumber containing the approximate percentages of the various dimensions of lumber usually produced by mills of comparable size in the sawmill industry of western Washington.

B. In veneer or plywood plants, logs, bolts, or veneer blocks have been converted to rough green veneer.

C. In wood chipping plants, roundwood products, logging residues or plant byproducts have been made into chips of any merchantable grade.[2] This definition will expire and be replaced by the original wording on December 31, 1977, unless prior analysis shows conclusive and continuing beneficial influence toward accomplishing the objectives of the Unit through retention of this definition.

D. In shingle mills, logs, or bolts have been manufactured into shingles or shakes of any marketable grade.

E. In other raw forest product processing plants, the forest material has been manufactured to a point comparable in

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[1] 14 F.R. 6797.

[2] Roundwood products are defined as: "Logs, bolts, or other round sections cut from trees."

Logging residues are defined as: "The unused portions of growing stock or sawtimber trees cut or killed by harvesting timber, land clearing, or cultural operations."

Plant byproducts are defined as: "Wood residues from primary manufacturing that are used for products. Includes slabs, edgings, trimmings, miscuts, sawdust, shavings, veneer cores and clippings and screenings at pulp mills."

degree of refinement to those stipulated above.

Special products, such as poles, piling, or spars will be excluded from the primary manufacturing stipulations.

IV. *Sale of timber.* Timber will be sold from the National Forest lands in the Unit under the applicable regulations of the Secretary of Agriculture. Sales involving stumpage values in excess of $500 will be advertised for competitive bidding.

It will be the objective of the Forest Service to design the sale program for the Unit so that active competition for the purchase of the timber will be possible and so that efficient logging operations of varying sizes can be accommodated.

National Forest timber will continue to be available in sufficient amounts to satisfy the needs of bona fide settlers, miners, residents, farmers, and prospectors for personal and domestic use, in accordance with existing laws, regulations, and Forest Service policies.

V. *Rate of cutting.* The allowable cut of National Forest timber in the Unit will be stated in the Timber Management Plan.

The Timber Management Plan, including the allowable cut, may be revised at any time, with the approval of the Regional Forester, Forest Service, in the event of a national emergency, a conflagration, an extremely damaging insect or disease attack, or other disaster of severe consequence, or in the event that new resource information is obtained warranting the recomputation of sustained yield.

National Forest timber within the Unit which may be granted in land exchange transactions shall be made available for cutting only in accordance with the manufacturing stipulations of this policy statement, and such timber shall be chargeable to the allowable cut to the extent the timber inventory of the Unit is decreased by such land exchange.

VI. *Local remanufacture.* The economic stability of the communities within the Grays Harbor Area will be furthered by the greatest practicable reduction and utilization of waste in the woods and at manufacturing plants, as well as by local refinement and remanufacture of the products of primary processing. To this end, the primary processors of National Forest timber purchased from the Unit will be expected to remanufacture their products locally to the greatest practical degree, or to offer them at competitive prices, to remanufacturers within the Grays Harbor Area for further processing.

VII. *Accomplishment of objectives.* Not later than December 31, 1977, and at not more than 10-year intervals thereafter, the Regional Forester will analyze the results obtained through the application of these policies in the management of the National Forest timber resource to determine whether or not the objectives of the Unit are being attained, and whether circumstances warrant continuance of the Unit. Each such analysis will include, but will not be limited to:

(1) Adherence to the cutting budget.

(2) Practices used in logging and the degree of woods utilization.

(3) Waste utilization in manufacturing and remanufacturing plants in the Grays Harbor Area.

(4) The extent to which National Forest timber from the Unit is refined and remanufactured in the Grays Harbor Area.

(5) The capacity of operating wood processing plants in relation to logs produced in the area more tributary to Grays Harbor than to other processing areas.

If, as a result of any such study, it is determined that the objectives of the Unit are being satisfactorily accomplished and that the objectives would not be met if the declaration establishing the Unit were revoked, the program outlined in this policy statement will be continued without interruption or change.

If, on the contrary, studies reveal that full and suitable utilization of the timber is not being accomplished; or, if for any other reason, it is found that the objectives of the Unit are not being substantially achieved, an advisory public hearing will be held to consider proposals calculated to correct the unsatisfactory conditions and to adjust the program outlined herein. If such hearing fails to develop practical ways and means of attaining the objectives contemplated by the Act of March 29, 1944 (58 Stat. 132; 16 U.S.C. 583–583i), the declaration establishing the Unit may be revoked.

Approved: March 15, 1968.

EDWARD P. CLIFF,
Chief, Forest Service.

[F.R. Doc. 68-5201; Filed, Apr. 30, 1968; 8:46 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

UNIVERSITY OF PITTSBURGH

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00322-33-46040. Applicant: Department of Pathology, University of Pittsburgh, School of Medicine, Terrace and De Soto Streets, Pittsburgh, Pa. 15213. Article: High resolution electron microscope, EM 300. Manufacturer: Philips Electronic Instruments, Inc., The Netherlands. Intended use of article: The article will be used for research in cellular biology and for training of graduate and postdoctoral fellows learning optical techniques for biological investigations. These investigations include research at the tissue, cellular and macromolecular levels, for which an instrument of variable capabilities is essential. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article provides a resolution of 5 Angstroms. The only known domestic electron microscope is the Model EMU-4 manufactured by the Radio Corporation of America (RCA), which provides a resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolving capabilities.) For the purposes for which the foreign article is intended to be used, the additional resolving capabilities of the foreign article are pertinent. (2) The foreign article provides accelerating voltages of 20, 40, 60, 80, and 100 kilovolts. The RCA Model EMU-4 provides only 50 and 100 kilovolt accelerating voltages. It has been experimentally established that the lower accelerating voltage of the foreign article affords optimum contrast for unstained biological specimens and that the voltages intermediate between 50 and 100 kilovolts afford optimum contrast for negatively stained specimens. For the purposes for which the foreign article is intended to be used, the additional accelerating voltages of the foreign article are pertinent.

For the foregoing reasons, we find that the RCA Model EMU-4 is not of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 68-5182; Filed, Apr. 30, 1968; 8:45 a.m.]

EAST TENNESSEE STATE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et. seq.).

A copy of the record pertaining to this decision is available for public review

during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00252-01-77030. Applicant: East Tennessee State University, Johnson City, Tenn. 37601. Article: Nuclear magnetic resonance spectrometer, Model JNM-C-60H with attachments. Manufacturer: Japan Electron Optics Laboratory Co., Inc., Japan. Intended use of article: The article will be used for teaching purposes and various specific analytical chemistry research projects as listed in the application. Comments: Comments were submitted by Varian Associates (Varian) which alleges inter alia that the Varian Model HA-60IL satisfies all the requirements for which the foreign article is intended to be used. (Par. 3 of enclosure to letter from Varian dated Jan. 10, 1968.) Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, was being manufactured in the United States at the time the applicant purchased the foreign article. Reasons: (1) The foreign article provides a 10-millimeter spinning sample capability. At the time the applicant received a quotation from Varian Associates on the Varian Model HA-60IL, (Oct. 13, 1967), Varian offered to furnish a 5-millimeter spinning sample probe. (See copy of Varian's quotation attached to application.) In its comments, Varian refers to its Model V-4335 8-millimeter spinning sample probe. (See section IV of Varian comments.) However, in its letter dated March 28, 1968, which was in reply to an inquiry regarding the availability of the Model V-4335 spinning sample probe, Varian stated that this probe was introduced on November 1, 1967.

(2) The foreign article has a specified sensitivity signal-to-noise ratio of 18 to 1. The printed specifications for the Varian Model HA-60IL (page 11 of Varian brochure on its Models HA-100, DA-60, and HA-60 INS 1517B February 1967) stipulate a sensitivity signal-to-noise ratio of 15 to 1. In the brochure that Varian enclosed with its comments, a line had been drawn through the 15 to 1 specification and a 25 to 1 signal-to-noise ratio specification written in lieu thereof. The printed specification attached to Varian's quotation to the applicant of October 13, 1967, does not indicate that the specified 15 to 1 ratio had been superceded. According to the letter from Varian dated March 28, 1968 cited above, the specification of 25 to 1 became effective August 1, 1967. However, the applicant certifies that only the original specification was quoted and, furthermore, the Varian Associates' representative could not guarantee more than the stated performances as specified by their brochures. According to Varian's comments (section IV), the 25 to 1 signal-to-noise ratio, coupled with a 5-millimeter probe "provides a signal almost as large as the JNM-C-60H with a 10-millimeter sample tube." Varian also claims that with the Model V-4335 8-millimeter sample probe, the 25 to 1 signal-to-noise ratio provides a sensitivity in excess of that obtainable with a 10-millimeter probe when using the JNM-C-60H. However, since by Varian's own admission, the 8-millimeter probe (Model V-4335) was not available until November 1, 1967, comparison is made with respect to the 5-millimeter probe which provides a sensitivity equal to that of the foreign article even with a specified 25 to 1 signal-to-noise ratio. We are advised by the National Bureau of Standard (NBS) that the 10-millimeter spinning sample capability of the foreign article allows a signal-to-noise improvement of about four-fold compared with the Varian Model HA-60IL and, for the purposes for which the foreign article is intended to be used, finds this capability to be pertinent. (Memorandum from NBS dated Feb. 1, 1968.)

(3) The foreign article provides both on internal and external lock, whereas the Varian Model HA-60IL comes equipped with either an internal or external lock, but not both. We are advised by the Department of Health, Education, and Welfare (HEW), that the availability of both the internal and external lock is a pertinent characteristic for the purpose for which the foreign article is intended to be used. (Memorandum from HEW dated Jan. 24, 1968.)

(4) HEW also advises us that research studies on fluorine complexes and coordination of ligands requires the suppression of unwanted sidebands and, further, that the Varian Model HA-60IL does not have sideband suppression for fluorine that is equivalent to the sideband suppression capabilities of the foreign article.

For the foregoing reasons, we find that the Varian Model HA-60IL available at the time the applicant purchased the foreign article, was not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 68-5183; Filed, Apr. 30, 1968; 8:45 a.m.]

NORTHEASTERN UNIVERSITY

Notice of Application for Duty-Free Entry of Scientific Article; Correction

The following notice of application published in Volume 33, Number 66 of the FEDERAL REGISTER (Thursday, Apr. 4, 1968) pursuant to section 6(c) of the Education, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) is hereby amended to read Model JEM-120 instead of Model JEM-7A.

Docket No. 68-00454-65-46040 Applicant: Northeastern University, 360 Huntington Avenue, Boston, Mass. 02115. Article: Electron microscope, Model JEM-120. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used for a study of the structure and structural defects in the following areas: (1) Vapor deposited thin films; (2) phase transformations of alloys; (3) high temperature alloys; (4) dislocation arrangements in deformed materials. Application received by Commissioner of Customs: March 19, 1968.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 68-5184; Filed, Apr. 30, 1968; 8:45 a.m.]

National Bureau of Standards

NATIONAL BUREAU OF STANDARDS RADIO STATIONS

Notice of Standard Frequency and Time Broadcasts

In accordance with National Bureau of Standards policy of giving monthly notices regarding changes of phases in seconds pulses, notice is hereby given that there will be no adjustment in the phase of seconds pulses emitted from radio station WWVB, Fort Collins, Colo., on June 1, 1968. The carrier frequency of WWVB is 60 kHz and is broadcast without offset. These emissions are made following the stepped atomic time (SAT) system as coordinated by the Bureau International de l'Heure (BIH).

Notice is also hereby given that there will be no adjustments in the phases of time pulses emitted from radio stations WWV, Fort Collins, Colo., and WWVH, Maui, Hawaii, on June 1, 1968. These pulses at present occur at intervals which are longer than 1 second by 300 parts in 10^{10}. This is due to the offset maintained in the carrier frequencies of these stations following the universal time (UTC) system as coordinated by the BIH.

A. V. ASTIN,
Director.

APRIL 19, 1968.

[F.R. Doc. 68-5240; Filed, Apr. 30, 1968; 8:49 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

IMPERIAL CHEMICAL INDUSTRIES, LTD.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), notice is given that a petition

(FAP 8B2281) has been filed by Imperial Chemical Industries, Ltd., Plastics Division, Bessemer Road, Welwyn Garden City, Hertfordshire, England, proposing the issuance of regulation to provide for the safe use of a mixture of polyoxyethylene alkyl (C_{16}-C_{18}) ether and polyoxyethylene tributylphenyl ether as optional components of coatings intended for use in contact with food.

Dated: April 22, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-5221; Filed, Apr. 30, 1968; 8:48 a.m.]

STATEMENT OF ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

The Statement of Organization, Functions, and Delegations of Authority appearing in 32 F.R. 10005 and 32 F.R. 10012 is hereby amended to reflect the Reorganization Order signed by Acting Secretary Wilbur J. Cohen on March 13, 1968 (33 F.R. 4894) as follows:

1. Section 10-B is amended to read: The Food and Drug Administration is administered by the Commissioner of Food and Drugs under the direction of the Assistant Secretary (Health and Scientific Affairs) and is comprised of the following organizational components:

Office of the Commissioner. Under the direction of the Assistant Secretary (Health and Scientific Affairs), the Commissioner of Food and Drugs is responsible for administering the following Acts: * * *

2. Section 10-C.2 is amended to read: *Delegations of Authority to the Commissioner of Food and Drugs.* Except as provised in Part 2, the Commissioner of Food and Drugs shall exercise the following functions of the Secretary which have been delegated to the Assistant Secretary (Health and Scientific Affairs) and redelegated by him to the Commissioner of Food and Drugs.

a. * * *

Effective date: March 13, 1968.

Dated: April 25, 1968.

JOHN D. R. COLE,
Acting Assistant Secretary for Administration.

[F.R. Doc. 68-5226; Filed, Apr. 30, 1968; 8:48 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 68-35]

THE DESIGNATION OF NEWARK, N.J., AS A PORT OF DOCUMENTATION

Proposed Revocation

1. The Commandant, U.S. Coast Guard, is considering a proposal to revoke the designation of Newark, N.J., as a port of documentation, and to conduct at and from the office of the Officer in Charge, Marine Inspection, U.S. Coast Guard, Battery Park Building, New York, N.Y. 10004, such documentation activities as have been performed heretofore at Newark.

2. Accordingly, notice is given that, under the authority in section 633 of Act of August 4, 1949 (14 U.S.C. 633), section 2 of Act of July 5, 1884, as amended (46 U.S.C. 2), section 1 of Act of February 16, 1925, as amended (46 U.S.C. 18), and subsection 6(b) of Department of Transportation Act (49 U.S.C. 1655(b)), and the delegation of authority of the Secretary of Transportation in 49 CFR 1.4(a)(2), it is proposed to:

(a) Revoke the designation of Newark, N.J., as a port of documentation; and,

(b) Transfer the marine records at Newark, N.J., to the office of the Officer in Charge, Marine Inspection, U.S. Coast Guard, Battery Park Building, New York, N.Y. 10004; and,

(c) Make New York the home port of all vessels now having Newark as a home port.

3. Interested persons may submit such written data, views, or arguments as they may desire regarding the proposals set forth in this document. All communications should be submitted in duplicate to the Commandant (CMC), U.S. Coast Guard, Washington, D.C. 20591, as soon as possible. Each communication shall identify the subject to which it is directed, the reason or basis for views expressed, and the name, address, and business firm or organization (if any) of the submitter. Each communication received on or before May 31, 1968, by the Commandant (CMC) will be considered and evaluated before taking final actions on the proposals in this document. Copies of all written comments received by the Commandant (CMC) will be available for examination and reading by interested persons in Room 4211, Coast Guard Headquarters, Washington, D.C., both before and after the closing date (May 31, 1968). The acknowledgement of the communications received by the Commandant (CMC) or the furnishing of reasons why suggested actions were or were not adopted will not be furnished in all cases since personnel are not available to handle the necessary correspondence. The proposals contained in this document may be changed in the light of comments received.

4. At this time no hearing is contemplated on the proposals in this document, but arrangements may be made for informal conferences with cognizant Coast Guard officials by contacting the Executive Secretary, Merchant Marine Council, Room 4211, Coast Guard Headquarters, Washington, D.C. 20591. Any data or views presented during such informal conferences must be submitted in writing to the Commandant (CMC) in accordance with this notice in order that it may become part of the record.

Dated: April 24, 1968.

P. E. TRIMBLE,
Vice Admiral, U.S. Coast Guard, Acting Commandant.

[F.R. Doc. 68-5239; Filed, Apr. 30, 1968; 8:49 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. PRM-30-41]

MINIATURE PRECISION PRODUCTS CO.

Notice of Filing of Petition

Notice is hereby given that Miniature Precision Products Co., 225 Crescent Street, Waltham, Mass., by letter dated April 5, 1968, has filed with the Commission a petition for rule making to amend the Commission's regulations pertaining to the licensing of byproduct material.

The petitioner requests that the Commission amend its regulations so as to exempt from licensing requirements lensatic compasses containing not more than 25 millicuries or tritium activated luminous paint. The tritium activated paint would permit the compass to be read in the dark.

A copy of the petition for rule making is available for public inspection in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

Dated at Washington, D.C., this 25th day of April 1968.

For the Atomic Energy Commission.

W. B. MCCOOL,
Secretary.

[F.R. Doc. 68-5181; Filed, Apr. 30, 1968; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 68-467]

STANDARD BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

APRIL 26, 1968.

In accordance with the Commission's action of April 24, 1968, granting a waiver of § 1.571(c) of its rules to permit expeditious consideration of this application, notice is hereby given that on June 4, 1968, the following application—

WBMJ, San Juan, P.R.
Mid-Ocean Broadcasting Corp.
Has: (CP) 1190 kc, 10 kw, DA-2, U.
Req: 1190 kc, 5 kw, 10 kw-LS, DA-2, U.

will be considered as ready and available for processing. Pursuant to the provisions of §§ 1.227(b)(1) and 1.591(b) of the rules, an application, in order to be considered with this application, or with any other application on file by the close of business on June 3, 1968, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by whichever date is earlier: (a) The close of business on June 3, 1968, or (b) the earlier effective cut-off date which this application or any other conflicting application may have by virtue of conflicts necessitating a hearing with applications appearing on previous lists.

The attention of any party in interest desiring to file pleadings concerning the above application pursuant to section 309(d)(1) of the Communications Act

of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for the provisions governing the time of filing and other requirements relating to such pleadings.

Action by the Commission April 24, 1968. Commissioners Hyde (Chairman), Bartley, Lee, Cox, Wadsworth, and Johnson.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 68-5233; Filed, Apr. 30, 1968; 8:49 a.m.]

[Docket Nos. 18020, 18021; FCC 68M-671]

ALMARDON, INCORPORATED OF FLORIDA, AND SUNRISE BROADCASTING CORP.

Order Regarding Procedural Dates

In re applications of Almardon, Incorporated of Florida, Pompano Beach, Fla., Docket No. 18020, File No. BPH-5928; Sunrise Broadcasting Corp., Pompano Beach, Fla., Docket No. 18021, File No. BPH-5931; for construction permits.

As a result of agreements reached on the record of a prehearing conference held this date in the above matter: *It is ordered:*

(1) That all procedural dates heretofore established in this proceeding are set aside pending the Commission's action on a third application which has been on file since before the order of designation herein (FCC 68-161; 11352, released February 26, 1968—see footnote 1, page 1 of that order; see also Hearing Examiner's order FCC 68M-412; 13764, released Mar. 11, 1968).

(2) The applicants need not commence publication until the anticipated Commission action noted above.

Upon the Commission's action the Hearing Examiner will order further procedural dates.

Issued: April 25, 1968.

Released: April 26, 1968.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 68-5234; Filed, Apr. 30, 1968; 8:49 a.m.]

[Docket No. 18137; FCC 68-462]

CHICKASAW TELEPHONE CO. AND AMERICAN TELEPHONE AND TELEGRAPH CO.

Order Instituting an Investigation and a Hearing

In the matter of Chickasaw Telephone Co., and American Telephone and Telegraph Co. (A.T.&T.), Docket No. 18137, Revision of A.T.&T. Tariff FCC No. 260, Private Line Service, to establish a monthly supplemental charge for Type 2001 channels; and supplemental charges for foreign exchange (Type 2006 channels) in general.

1. The Commission has before it revised tariff schedules filed by A.T.&T. on March 29, 1968, under its Transmittal No. 10080, on behalf of Chickasaw Telephone Co., Ardmore, Okla., which would establish a monthly supplemental charge of $750 for each Type 2001 (Private Line Voice) channel furnished specifically to General Dynamics Corp. between Ardmore Air Park, Okla., and Fort Worth, Tex. On the basis of the information now before us, we are unable to determine that this supplemental charge is or will be just and reasonable or otherwise lawful. If the revised schedules are permitted to become effective on the date specified, the rights and interests of the public may be adversely affected thereby.

2. Justification for the supplemental charge as filed by letter of April 10, 1968, from the Chickasaw Telephone Co. is that the charge is designed to recoup loss of revenue to the company resulting from the provision of the aforesaid interstate private line service. It is alleged that the service presently furnished at the usual rates applicable generally to such private line service is used to connect a switchboard furnished to Stromberg Carlson, a subsidiary of General Dynamics Corp., at Ardmore Air Park to a General Dynamics Corp. switchboard at Fort Worth, Tex. In turn, the circuit or circuits in question can be connected to WATS (Wide Area Telephone Service) lines which terminate at General Dynamics switchboard and which in turn provide access to numerous areas throughout the United States. Chickasaw further alleges that the proposed $750 supplemental monthly rate would be a "deterrent rate" and that the charge is based on "value of service." In short, the company desires to be compensated for alleged loss of message toll revenues having a "substantial adverse financial impact" on it.

3. A survey of the tariffs on file with us shows that supplemental charges are imposed by a number of the connecting carriers throughout the country, usually for Type 2006 voice channels provided for foreign exchange service (exchange service from an exchange other than the exchange in which the customer is located). These charges may not be justified and raise the same or similar questions to those raised by the charge proposed by Chickasaw.

4. The justness and reasonableness of such supplemental charges, based primarily on the loss of message toll revenues, and apparently not related to the actual service rendered, have not heretofore been considered by the Commission. Furthermore, a serious question of discrimination is raised by the specific application of the proposed revisions to a single subscriber.

Accordingly, in view of the foregoing considerations, *It is ordered,* That, pursuant to the provisions of sections 201, 202, 203, 204, 205, and 403 of the Communications Act of 1934, as amended, an investigation is instituted into the lawfulness of the above-described supplemental charge and the lawfulness of similar supplemental charges now contained in Tariff FCC No. 260 as enumerated in the appendix hereto;

It is further ordered, That, pursuant to the provisions of section 204, the operation of the above-described tariff schedule is hereby suspended until August 1, 1968;

It is further ordered, That, without in any way limiting the scope of the investigation, it shall include consideration of the following:

(1) Whether the charges, classifications, practices, and regulations published in the aforesaid tariff schedules are or will be unjust and unreasonable within the meaning of section 201(b) of the act;

(2) Whether such charges, classifications, practices, and regulations will, or could be applied to, subject any person or class of persons to unjust or unreasonable discrimination or give any undue or unreasonable preference or prejudice to any person, class of persons, or locality, within the meaning of section 202(a) of the act;

(3) Whether the aforesaid tariff schedules conform to the requirements of section 203 of the act and Part 61 (47 CFR Part 61) of our rules implementing that section;

(4) If any of such charges, classifications, practices, and regulations are found to be unlawful, whether the Commission should prescribe charges, classifications, practices, and regulations for the service governed by the tariff schedules, and if so, what should be prescribed.

It is further ordered, That a hearing be held in this proceeding at the Commission's offices in Washington, D.C., at a time to be specified; and that the examiner to be designated to preside at the hearing shall certify the record, without preparation of an initial or recommended decision, and the Chief of the Common Carrier Bureau shall thereafter issue a recommended decision which shall be subject to the submittal of exceptions and requests for oral argument as provided in 47 CFR 1.276 and 1.277, after which the Commission shall issue its decision as provided in 47 CFR 1.282; and

It is further ordered, That Chickasaw Telephone Co., American Telephone and Telegraph Co. and all carriers listed in the appendix to this order are made parties respondent.

Adopted: April 24, 1968.

Released: April 26, 1968.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

APPENDIX

The below listed carriers, which are named parties respondent to this proceeding, are listed in the currently filed pages of American Telephone and Telegraph Co. Tariff FCC No. 260 as making a monthly supplemental charge for either Type 2001 or 2006 channels, or for 2001 channels provided for voice and foreign exchange service on an alternate use basis. This list includes carriers for which filings have been made which are not yet effective, and does not include carriers for which filings have been made which will, on

[1] Commissioner Loevinger absent.

their effective date, withdraw the supplemental charges of the carrier.

a. Type 2001

West Jersey Telephone Co., Belvidere, N.J.

b. Type 2006

Central Telephone Co., Las Vegas, Nev.
Central Telephone Co., Lincoln Nebr.
Columbia & Rensselaer Telephone Corp., Chatham, N.Y.
Farmers Mutual Cooperative Telephone Company of Shelby County, Iowa, Harlan, Iowa.
Illini State Telephone Co., Mascoutah, Ill.
Ilwaco Telephone Co., Ilwaco, Wash.
Iowa Telephone Co., New London, Iowa.
Kansas State Telephone Co., The, Baxter Springs, Kans.
Kansas Telephone Co., Ottawa, Kans.
Lincoln Telephone & Telegraph Co., Lincoln, Nebr.
Piedmont Telephone Co., Manassas, Va.
Quaker State Telephone Co., Pine Grove, Pa.
United Telephone Company of Kansas, Inc., Shawnee Mission, Kans.
United Telephone Company of Missouri, Kansas City, Mo.
Virginia Telephone & Telegraph Co., Charlottesville, Va.
Western Telephone Co., Clarence, Mo.

c. Type 2001 or 2006 on Alternate Use Basis

Central Telephone Co., Las Vegas, Nev.
Lincoln Telephone & Telegraph Co., Lincoln, Nebr.
Virginia Telephone & Telegraph Co., Charlottesville, Va.

[F.R. Doc. 68-5235; Filed, Apr. 30, 1968; 8:49 a.m.]

[Docket No. 18017, 18018; FCC 68M-660]

MARK TWAIN BROADCASTING CO. AND GREAT RIVER COMMUNICATIONS, INC.

Order Continuing Hearing

In re applications of Mark Twain Broadcasting Co. Hannibal, Mo., Docket No. 18017, File No. BPH-5729; Great River Communications, Inc., Hannibal, Mo., Docket No. 18018, File No. BPH-6058; for construction permits.

It is ordered, Pursuant to agreements reached at the prehearing conference held on April 24, 1968, that the evidentiary hearing in the above-entitled proceeding now scheduled for May 16, 1968, is continued to June 25, 1968, beginning at 10 a.m., in the offices of the Commission, Washington, D.C.

Issued: April 24, 1968.

Released: April 25, 1968.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 68-5236; Filed, Apr. 30, 1968; 8:49 a.m.]

[Docket Nos. 17926, 17927; FCC 68M-664]

WENY, INC., AND CHANNEL 9 SYRACUSE, INC.

Order Cancelling Hearing

In re applications of WENY, Inc., Elmira, N.Y., Docket No. 17926, File No. BPCT-3918; Channel 9 Syracuse, Inc., Elmira, N.Y., Docket No. 17927, File No. BPCT-4000; for construction permit for new television broadcast station (channel 36).

The Hearing Examiner having under consideration the following pleadings:

(1) Petition for leave to amend filed by Channel 9 Syracuse, Inc., on March 29, 1968, together with comments filed by the Broadcast Bureau on April 9, 1968;

(2) Petition to withdraw application without prejudice filed by Channel 9 Syracuse, Inc., on April 16, 1968;

It appearing that the first of these pleadings will be rendered moot by a grant of the second; and

It further appearing that there is a pleading pending before the Review Board relating to WENY, Inc., which must receive action before that application can be granted; and

It further appearing that the petition to withdraw, which in effect is a request to dismiss, states no reasons why such action should be other than with prejudice;

It is ordered, That the aforesaid petition to amend is dismissed as moot; and

It is further ordered, That the petition to withdraw is granted and the application of Channel 9 Syracuse, Inc., is dismissed with prejudice, and the application of WENY, Inc., is retained in hearing status; and

It is further ordered, That the scheduled hearing date of May 2, 1968 is canceled.

Issued: April 24, 1968.

Released: April 26, 1968.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 68-5237; Filed, Apr. 30, 1968; 8:49 a.m.]

FEDERAL MARITIME COMMISSION

COMMODORE CRUISE LINE, LTD. AND PAN AMERICAN CRUISE LINES, INC.

Security for the Protection of the Public; Indemnification of Passengers for Nonperformance of Transportation; Notice of Application for Certificate [Performance]

Notice is hereby given that pursuant to the provisions of section 3, Public Law 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20 (46 CFR Part 540) the following persons have applied to the Federal Maritime Commission for a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation:

Commodore Cruise Line, Ltd.
Pan American Cruise Lines, Inc.

Dated: April 26, 1968.

THOMAS LISI,
Secretary.

[F.R. Doc. 68-5212; Filed, Apr. 30, 1968; 8:47 a.m.]

PAN AMERICAN CRUISE LINES, INC.

Security for the Protection of the Public; Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Application for Certificate [Casualty]

Notice is hereby given that pursuant to the provisions of section 2, Public Law 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, Amendment 2 (46 CFR Part 540) the following persons have applied to the Federal Maritime Commission for a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages:

Pan American Cruise Lines, Inc.

Dated: April 26, 1968.

THOMAS LISI,
Secretary.

[F.R. Doc. 68-5213; Filed, Apr. 30, 1968; 8:47 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-3300 etc.]

DIAMOND SHAMROCK CORP.

Correction of Order Amending Orders Issuing Certificates of Public Convenience and Necessity

APRIL 18, 1968.

In order amending orders issuing certificates of public convenience and necessity, accepting notices of succession to FPC gas rate schedules for filing, redesignating FPC gas rate schedules, substituting respondents, redesignating proceedings, and accepting agreement and undertaking for filing, issued March 26, 1968, and published in the FEDERAL REGISTER April 3, 1968 (F.R. Doc. 68-3938), 33 F.R. 5326, Docket No. G-3300 et al., lines 2 and 3: Change "Nos. RI68-144 and RI68-316 in which proceedings changes in rate are" to read "No. RI68-316 in which proceeding in the change in rate is", paragraph (E), lines 5 and 6: Change "proceedings pending in Docket Nos. RI68-144 and RI68-316." to read "proceeding pending in Docket No. RI68-316."

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68-5185; Filed, Apr. 30, 1968; 8:45 a.m.]

[Docket Nos. RI68-532, etc.]

GULF OIL CORP. ET AL.

Correction of Order Accepting Contract, etc.

APRIL 18, 1968.

In order accepting contract, providing for hearings on and suspension of proposed changes in rates, issued March 29, 1968, and published in the FEDERAL REGISTER April 6, 1968 (F.R. Doc. 68-4077),

33 F.R. 5485, Docket Nos. RI68-532, et al., for Docket No. RI68-534, Forest Oil Corp.: Under column headed "Rate in Effect", change "Footnote 17" to read 'Footnote 10"., Docket No. RI68-543, National Fuels Corp: Under column headed "Respondent", change "Natural" to read "National".

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68-5186; Filed, Apr. 30, 1968; 8:45 a.m.]

[Docket No. CP68-288]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

APRIL 24, 1968.

Take notice that on April 22, 1968, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP68-288, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of natural gas facilities for the testing and development of an underground natural gas storage reservoir, referred to as Columbus City Storage, Louisa County, Iowa, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to construct and operate the following:

(1) Approximately 1.11 miles of temporary 6-inch pipeline from the existing Cairo storage branch pipeline to the Columbus City Field.

(2) Approximately 4.24 miles of 10-, 8-, and 6-inch gathering lines.

(3) The drilling of five injection-withdrawal wells.

(4) The drilling of seven observation wells.

(5) The construction of approximately 6.17 miles of 2-inch pipeline, said pipeline to be constructed after the initial successful injection of gas.

(6) The drilling of up to six additional wells if necessary for exploratory purposes.

Applicant states that it proposes a testing and development program contemplating the injection of approximately 300 million Mcf of gas and withdrawals only for testing purposes.

The total estimated cost of the proposed development and testing program including inventory volume and options on storage rights for the first phase of development is $2,238,000, which cost will be financed from funds on hand and interim loans.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before May 22, 1968.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68-5187; Filed, Apr. 30, 1968; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-2308]

INVESTORS DIVERSIFIED SERVICES, INC.

Notice of Filing of Application for Order Exempting Proposed Transaction

APRIL 25, 1968.

Notice is hereby given that Investors Diversified Services, Inc. ("IDS") Investors Building, Minneapolis, Minn. 55402, a face-amount certificate investment company registered under the Investment Company Act of 1940 ("Act") has filed an application pursuant to section 6(c) of the Act for an order exempting a proposed transaction from the provisions of section 12(d)(1) of the Act. All interested persons are referred to the application on file with the Commission for a statement of Applicant's representations which are summarized below.

IDS acts as investment adviser and underwriter to Investors Mutual, Inc., Investors Selective Fund, Inc., Investors Stock Fund, Inc., and Investors Variable Payment Fund, Inc., open-end companies, and to Investors Syndicate of America, Inc., a face-amount certificate company subsidiary. IDS also acts as underwriter for Investors Accumulation Plan, a registered unit investment trust offering periodic payment plan certificates for the accumulation of shares of Investors Stock Fund, Inc.

IDS proposes to form a new open-end, diversified management investment company, to be named IDS Progressive Fund, Inc. ("Fund") with the primary objective of capital appreciation. IDS proposes to purchase 20,000 shares at $5 per share of the capital stock of the fund for the purpose of providing the minimum $100,000 initial capital required by section 14 (a) of the Act. IDS represents that in addition to registering the fund under the Act, the securities would be registered for public offering under the Securities Act of 1933.

Section 12(d)(1) of the Act provides, in pertinent part, that it shall be unlawful for any registered investment company to purchase any security issued by any other investment company of which such registered investment company shall not at the time of such purchase own in the aggregate at least 25 per centum of the total outstanding stock if such registered investment company as a result of such purchase will own in the aggregate more than 3 per centum of the total outstanding voting stock of such other investment company.

The application states that IDS believes that when a public offering is made it reasonably can be anticipated that the proportion of the common shares of the new Fund held by IDS would be reduced to a very small percentage. The application further states that by providing the initial $100,000 IDS would be performing the same function ordinarily performed by other mutual fund underwriters when they sponsor new funds for public sale.

IDS agrees that (1) it will undertake to hold for investment and not for distribution the shares of the fund acquired pursuant to this application; and (2) it will not purchase or otherwise acquire, any shares of the fund in addition to the 20,000 shares now proposed to be purchased until such time as the percentage ownership of voting securities of the fund by IDS or any company or companies controlled by it shall have been reduced to less than 3 percent of the total outstanding voting stock of the fund.

Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any transaction, or any classes thereof, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than May 17, 1968, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing

of the application herein may be issued by the Commission upon the basis of the information stated in said application unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 68-5196; Filed, Apr. 30, 1968; 8:46 a.m.]

[812-2289]

MARATHON SECURITIES CORP.

Notice of Filing of Application for Order Exempting Transactions

APRIL 25, 1968.

Notice is hereby given that Marathon Securities Corp. ("Marathon"), 66 Beaver Street, New York, N.Y. 10004, a Delaware corporation, registered as a closed-end, nondiversified, investment company under the Investment Company Act of 1940 ("Act") has filed an application pursuant to section 17(b) of the Act to exempt from section 17(a) of the Act the proposed modification of the terms of a $5 million, 5½-percent Convertible Subordinated Note due 1978 ("Note") of Packard-Bell Electronics Corp. ("Packard-Bell"), and pursuant to Rule 17d-1 promulgated under section 17(d) of the Act to exempt transactions of Marathon and Packard-Bell with Teledyne, Inc. ("Teledyne"), from section 17(d) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

Background. On July 28, 1965, Marathon acquired the note of Packard-Bell, a California corporation principally engaged in the design, assembly, sale and service of home entertainment electronic products. The Note is convertible into 526,315 shares, or approximately 34 percent of the outstanding stock of Packard-Bell, at $9.50 principal amount per share prior to April 30, 1968. Thereafter, it is convertible at certain designated dates at increasing rates per share. The Note Agreement requires, that, upon conversion, the holder thereof use its best efforts to effect, within 90 days, as wide a distribution of the shares of capital stock received as may be practicable (with no person receiving in excess of 10,000 shares) or to distribute the shares to the holder's shareholders. The Note Agreement gives Marathon or any subsequent holder the right to designate two Packard-Bell directors. At present, three of Packard-Bell's nine directors are also directors of Marathon.

The proposed transactions. On January 9, 1968, Marathon concluded an agreement in principle to sell the Note to Teledyne for an $8,500,000 principal amount 4 percent subordinated note convertible into shares of Teledyne common stock at $154 per share, provided that the Board of Directors of Packard-Bell would not insist upon the distribution by Teledyne of Packard-Bell capital stock which it would receive upon exercise of the conversion right under the Note.

After the agreement in principle had been reached, Marathon informed the Packard-Bell board of directors of the details of the proposed transaction. At a Packard-Bell Board of Directors' meeting held on January 11, 1968, Teledyne offered to combine Packard-Bell and Teledyne on the basis of one share of Teledyne common stock for each 7.5 shares of Packard-Bell capital stock outstanding, and the Board of Directors of Packard-Bell (those members affiliated with Marathon not participating) approved the agreement in principle to merge Packard-Bell into Teledyne. Teledyne also offered Marathon the opportunity to convert the Note and participate as a stockholder in the transaction on the same basis as other Packard-Bell stockholders.

On January 12, 1968, Packard-Bell agreed not to insist that Teledyne distribute any shares of Packard-Bell capital stock it would receive upon conversion of the Note, and, in view of the approaching rise in the conversion rate of the Note on April 30, 1968, that it would extend the time within which Marathon would have to distribute any stock it received upon conversion of the Note.

During the weeks that followed the agreement in principle between Teledyne and Packard-Bell on January 11, 1968, the price of Teledyne common stock on the New York Stock Exchange declined. As a result Packard-Bell approached Teledyne to renegotiate the terms of the agreement in principle. At a meeting on February 13, 1968, Teledyne's representatives indicated that it would not renegotiate the exchange ratio which it regarded as representing the relative values of each of the constituent companies in the combined enterprise. However, Teledyne indicated it would be willing to offer Packard-Bell stockholders the same terms as those embodied in the agreement between Teledyne and Marathon. On February 16, 1968, the Packard-Bell Board of Directors, upon the advice of an independent investment banker, elected to go forward on the basis of the 7.5-2-1 exchange ratio.

Marathon converted the Note on April 15, 1968, in order to take advantage of the more favorable conversion prices. The Packard-Bell shares it obtained will be accepted by Teledyne in exchange for Teledyne's $8,500,000 note described above.

Commission jurisdiction. Section 17(a) of the Act, as here pertinent, prohibits an affiliated person of a registered investment company from selling to or purchasing from such registered company any securities or other property. However, the Commission, upon application pursuant to section 17(b), may grant an exemption from the provisions of section 17(a) after finding that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of such investment company and with the general purposes of the Act. Since Marathon's ownership of the Packard-Bell Note entitled Marathon to designate two Packard-Bell directors, Packard-Bell may be deemed an affiliated person of Marathon within the meaning of section 2(a)(3) of the Act. The proposed modification by Packard-Bell of a provision of the Note Agreement relating to Marathon's obligations thereunder may be viewed as the sale by Packard-Bell to Marathon of a new security within the meaning of section 17(a).

Section 17(d) of the Act and Rule 17d-1 thereunder, taken together, provide, as here pertinent, that it shall be unlawful for an affiliated person of a registered investment company or an affiliated person of such a person, acting as principal, to participate in, or to effect any transaction in connection with, any joint enterprise or other joint arrangement in which any company controlled by such registered company is a participant unless an application regarding such arrangement has been granted by the Commission. In passing upon such application, the Commission must consider whether the participation of such registered company or controlled company in such arrangement is consistent with the provisions, policy, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants. Marathon seeks an exemption to the extent necessary to permit Marathon and Packard-Bell to enter the transactions with Teledyne described above.

Supporting statements. The application states that the transactions referred to above are consistent with the provisions, policies and purposes of the Act and do not involve overreaching on the part of any person concerned. In addition, it is represented that the transactions are fair and equitable to both Marathon and Packard-Bell and that neither party will participate on a basis less advantageous than that of the other. After agreeing to enter the transactions, Teledyne offered to Marathon and Packard-Bell separately the opportunity to take the terms which had been agreed to by the other party. Marathon refused the offer of common stock because of its interest in reducing the existing concentration of a major portion of its assets in a single company. Packard-Bell refused the offer of a debt security because such an exchange might result in adverse tax consequences to its shareholders who, it believed were interested in maintaining an equity position.

In addition, the application states that the transactions are fair to Marathon because (i) they are consistent with Marathon's prior efforts, to dispose of a significant portion of its entire investment in Packard-Bell, and are consistent with Marathon's investment policy; and (ii) Packard-Bell was not in a position to influence Marathon's decision or to take advantage of Marathon in any way. The application also states that the transactions are fair to Packard-Bell because they are consistent with the efforts of its independent directors to combine with a larger enterprise.

Notice is further given that any interested person may, not later than May 16, 1968, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Marathon at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 68-5197; Filed, Apr. 30, 1968; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

APRIL 26, 1968.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41309—*Class and commodity rates from and to Burson, S.C.* Filed by O. W. South, Jr., agent (No. A6003), for interested rail carriers. Rates on property moving on class and commodity rates, between Burson, S.C., on the one hand, and points in the United States and Canada, on the other.

Grounds for relief—New station and grouping.

FSA No. 41310—*Corn and grain sorghums to Morrilton, Ark.* Filed by Southwestern Freight Bureau, agent (No. B-9069), for interested rail carriers. Rates on corn and grain sorghums, etc., in carloads, as described in the application, from specified points in Iowa, Kansas, Missouri, and Nebraska, to Morrilton, Ark. (Group 24).

Grounds for relief—Carrier competition.

Tariff—Supplement 21 to Southwestern Freight Bureau, agent, tariff ICC 4748.

FSA No. 41311—*Return shipments of flour within official territory.* Filed by Traffic Executive Association-Eastern Railroads, agent (E.R. No. 2914), for interested rail carriers. Rates on flour, in carloads, from and to points within official territory, returned to original points of shipment in said territory.

Grounds for relief—Carrier competition.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 68-5205; Filed, Apr. 30, 1968; 8:46 a.m.]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

APRIL 26, 1968.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. 10227, filed April 16, 1968. Applicant: MORTON JOHN KAVANAUGH JR., Post Office Box 63, Ruston, La. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *freight*, over and along Louisiana State Highways No. 1 and between the following named points: Shreveport and Alexandria serving no intermediate points as an alternate route for operating convenience only in connection with presently authorized routes. Both intrastate and interstate authority sought.

HEARING: No date has been assigned. Requests for procedural information, including the time for filing protests, concerning this application should be addressed to the Louisiana Public Service Commission, Baton Rouge, La., and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 68-5206; Filed, Apr. 30, 1968; 8:47 a.m.]

[Notice 597]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

APRIL 26, 1968.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 340), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 10761 (Sub-No. 224 TA), filed April 22, 1968. Applicant: TRANS-AMERICAN FREIGHT LINES, INC., 1700 North Waterman Avenue, Detroit, Mich. 48209. Applicant's representative: L. G. Naidow (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in section A and C of appendix I, *Description in Motor Carrier Certificates*, 61 M.C.C. 209 (272-273) and 61 M.C.C. 766 (except commodities in bulk, in tank vehicles, and hides), from the plantsite of Missouri Beef Packers at or near Friona, Tex., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Hampshire,

New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and the District of Columbia, restricted to traffic originating at the above-named plantsite and destined to the States named, for 150 days. Supporting shipper: Missouri Beef Packers, Inc., Rockport, Mo. Send protests to: Melvin F. Kirsch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1110 Broderick Tower, 10 Witherell, Detroit, Mich. 48226.

No. MC 41706 (Sub-No. 8 TA), filed April 23, 1968. Applicant: TOSE, INC., 64 West Fourth Street, Bridgeport, Pa. 19405. Applicant's representative: Joseph F. Cassidy (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Parcels and packages*, no single parcel or package to exceed 50 pounds, nor an overall dimension of 6 cubic feet; and the return of *damaged, refused, or exchanged merchandise*, (1) from Wilmington, Del., and points in the counties of Philadelphia, Montgomery, and Delaware, Pa., to points within the State of New Jersey, in the area bounded by the Delaware River, Woodstown, Clayton, Atco, Mount Holly, and Burlington; (2) from Moorestown, N.J., and Wilmington, Del., to points in the counties of Philadelphia, Montgomery, Delaware, Bucks, and Chester, Pa.; (3) also the right to return damaged and exchanged merchandise and items for storage, for 165 days. Supporting shippers: B. Altman & Co., Lancaster Avenue, St. Davids, Pa. 19087; Jackson & Moyer, 1610 Chestnut Street, Philadelphia, Pa.; Jacob Reed's Sons, 1424 Chestnut Street, Philadelphia, Pa.; Lord & Taylor, City Line and Belmont Avenue, Bala-Cynwyd, Pa. 19004; Morville Clothes, Inc., 1428 Walnut Street, Philadelphia, Pa.; Nan Duskin, Inc., 1729 Walnut Street, Philadelphia, Pa.; Penn Fruit Co., Inc., Grant Avenue and Blue Grass Road, Philadelphia, Pa.; Wm. H. Wanamaker, 1217 Chestnut Street, Philadelphia, Pa. Send protests to: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 900 U.S. Customhouse, Second and Chestnut Streets, Philadelphia, Pa. 19106.

No. MC 56853 (Sub-No. 8 TA), filed April 22, 1968. Applicant; B AND B LINES, INC., 1002 North Qwasso Avenue, Tulsa, Okla. 74106. Applicant's representative: J. H. Jenkins (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Bartlesville, Okla., and Coffeyville, Kans., serving the intermediate point of Caney, Kans., and its commercial zone; from Bartlesville over U.S. Highway 75 to its junction with U.S. Highway 166, thence over U.S. Highway 166 to Coffeyville, including the authority to (1) tack or join with permanent authority held by it, for the purpose of performing through transportation service, and (2) perform joint line service. Carrier is presently authorized to serve between Bartlesville, Okla., and Coffeyville, Kans., from Bartlesville and U.S. Highway 60 to its junction with U.S. Highway 169, thence over U.S. Highway 169 to Coffeyville, for 180 days. NOTE: Applicant intends to tack the authority sought herein at Coffeyville, Kans., Oklahoma City, Tulsa, Henryetta, and Bartlesville, Okla. Supporting shippers: There are approximately 10 statements of support attached to the application which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 350, American General Building, 210 Northwest Sixth, Oklahoma City, Okla. 73102.

No. MC 95540 (Sub-No. 731 TA), filed April 24, 1968. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, Fla. 33802. Applicant's representative: Paul E. Weaver (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C as defined by the Commission, from the plantsite of Missouri Beef Packers, Inc., near Friona, Tex., to points in Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and the District of Columbia, for 150 days. Supporting shipper: Missouri Beef Packers, Inc., Rockport, Mo. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, Room 1226, 51 Southwest First Avenue, Miami, Fla. 33130.

No. MC 111729 (Sub-No. 261 TA), filed April 24, 1968. Applicant: AMERICAN COURIER CORPORATION, 222-17 Northern Boulevard, De Bevoise Building, Bayside, N.Y. 11361. Applicant's representative: Hedy Latkowski (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Business papers, records, data processing materials, and audit and accounting media of all kinds*, between Buffalo, N.Y., on the one hand, and, on the other, Rochester, N.Y., for 150 days. NOTE: Applicant intends to interline with Trans Canadian Couriers, Ltd., at Buffalo, N.Y. Supporting shipper: Xeron Corp., Rochester, N.Y. Send protests to: E. N. Carignan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 112520 (Sub-No. 179 TA), filed April 24, 1968. Applicant: McKENZIE TANK LINES, INC., New Quincy Highway, Post Office Box 1200, Tallahassee, Fla. 32302. Applicant's representative: Sal H. Proctor, 1729 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and fertilizer ingredients*, from Pensacola, Fla., to points in Alabama and Mississippi, for 180 days. Supporting shipper: Kerr-McGee Corp., Kerr-McGee Building, Oklahoma City, Okla. 73102. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, 400 West Bay Street, Box 35008, Jacksonville, Fla. 32202.

No. MC 112750 (Sub-No. 258 TA), filed April 24, 1968. Applicant: AMERICAN COURIER CORPORATION, 222-17 Northern Boulevard, De Bevoise Building, Bayside, N.Y. 11361. Applicant's representative: Gerald L. Peace (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commerical papers, documents, written instruments, and business records* (except currency and negotiable securities), as are used in the business of banks and banking institutions, between Bluefield, W. Va., on the one hand, and, on the other, points in Tazewell County, Va., for 180 days. Supporting shippers: Southwest Virginia National Bank, Bluefield, Va. 24605; Bank of Tazewell, County Box 111, Tazewell, Va. 24651. Send protests to: District Supervisor E. N. Carignan, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, Room 1807, New York, N.Y. 10007.

No. MC 119710 (Sub-No. 13 TA) (correction), filed April 17, 1968, published FEDERAL REGISTER, issue of April 25, 1968, and republished as corrected this issue. Applicant: JOHN L. SHUPE AND IVAN D. SHUPE, doing business as SHUPE BROS., Post Office Box 919, Greeley, Colo. 80631. Applicant's representative: Paul F. Sullivan, Colorado Building, Washington, D.C. 20005. The purpose of this republication is to show the correct docket number assigned thereto, as shown above, in lieu of No. MC 119710 (Sub-No. *12* TA), which was in error.

No. MC 124174 (Sub-No. 64 TA), filed April 24, 1968. Applicant: MOMSEN TRUCKING CO., a corporation, Highways 71 and 18 North, Spencer, Iowa 51301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides, skins, pelts, chromes and pieces therefrom*, from points in Iowa, Minnesota, Nebraska, Missouri, Kansas, Wisconsin, Illinois, Indiana, Tennessee, and South Dakota, to Port Huron, Detroit, and Sault Sainte Marie, Mich., and Alexandria Bay and Buffalo, N.Y., for 180 days. Supporting shipper: Robson-Lang Leathers, R. W. Collins, Traffic Manager, Oshawa, Ontario, Canada. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 304 Post Office Building, Sioux City, Iowa 51101.

No. MC 127848 (Sub-No. 2 TA) (Correction), filed April 15, 1968, published in

the FEDERAL REGISTER, issue of April 25, 1968, and republished as corrected this issue. Applicant: WAYNE W. SELL CORPORATION, 236 Winfield Road, Sarver, Pa. 16055. Applicant's representative: Wayne W. Sell (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime and lime products, limestone and limestone products, concrete mix, mortar mix, sand mix, masonry cement*, from points in the townships of Charlestown, East Whiteland, and Tredyffrin, Chester County, Pa., to points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, and Virginia, for 180 days. NOTE: The purpose of this republication is to reflect the origins involved which were inadvertently omitted in the previous publication. Supporting shipper: Warner Co., 1721 Arch Street, Philadelphia, Pa. 19103. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2109 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 129654 (Sub-No. 1 TA), filed April 22, 1968. Applicant: J. L. ANDERSON, doing business as J. L. ANDERSON & SON, Post Office Box 471, Wendell, Idaho 83355. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such supplies and equipment as are used by beekeepers* exclusively in the tending or care of live bees and in the packaging or production of honey and beeswax, also *honey and/or beeswax* when moving in mixed shipments with the above supplies and equipment, restricted to shipments originating or terminating at apiaries of members of Sioux Honey Association, (a) between Wendell, Idaho, on the one hand, and, on the other, points in Arizona, Colorado, California, Iowa, Minnesota, Montana, Nebraska, New Mexico, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, (b) between Anaheim, Calif., on the one hand, and, on the other, points in Arizona, Colorado, Iowa, Idaho, Minnesota, Montana, Nebraska, New Mexico, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming; (2) *materials, equipment, and supplies used by honey processing, storing, and distributing plants and by apiaries; honey and/or beeswax* when moving in mixed shipments with such materials, equipment, and supplies, (a) between plants, warehouses, or storage facilities used by Sioux Honey Association located at Anaheim, Calif., Sioux City, Iowa, Temple, Tex., or Wendell, Idaho.

(3) *Such supplies and equipment as are used by beekeepers in the tending or care of live bees and the packaging or production of honey and beeswax; and such supplies and equipment as used by honey processing, storing and distributing plants*, (a) from Hamilton, Ill., and Polson, Mont., to Wendell, Idaho; (b) from Hamilton, Ill., and Polson, Mont., to points in Arizona, California, Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, New Mexico, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. Restricted to shipments terminating at apiaries of members of Sioux Honey Association. (4) *Glass bottles, jars, or bowls*, (a) from Ada, Okla., El Monte, Calif., and Santa Ana, Calif., to Wendell, Idaho; (b) from Seattle, Wash., to Wendell, Idaho; (5) *metal caps, for bottles, or jars;* (a) from El Monte, Calif., to Wendell, Idaho; (6) *plastic articles*, other than expanded; *honey*, when moving in mixed shipments with such plastic articles, (a) from Anaheim, Calif., to Wendell, Idaho; (7) *metal cans*, set up, not exceeding 5-gallon capacity, (a) from Los Angeles and San Francisco, Calif., to Wendell, Idaho, for 180 days. Supporting shipper: Sioux Honey Association, Post Office Box 1107, Sioux City, Iowa 51102. Send protests to: C. W. Campbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Interstate Commerce Commission, 455 Federal Building and U.S. Courthouse, 550 West Fort Street, Boise, Idaho 83702.

No. MC 129837 (Sub-1 TA), filed April 24, 1968. Applicant: WILLIAM VANN, doing business as WILLIAM VANN TRUCKING, 3412 George Washington Highway, Portsmouth, Va. 23704. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and/or fertilizer material*, from Chesapeake, Va., to points in North Carolina (on and east of U.S. 220, from Virginia State line to Rockingham, N.C.), for 150 days. Supporting shippers: W. R. Grace & Co., 101 North Charles Street, Baltimore, Md. 21203; Swift & Co., Box 7537, Norfolk, Va. 23515. Send protests to: Robert W. Waldron, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 10-502 Federal Building, Richmond, Va. 23240.

No. MC 129853 TA, filed April 24, 1968. Applicant: C & C FARMS, INC., 67 Middle Road, Hammonton, N.J. 08037. Applicant's representative: Sam J. Cappuccio (same address as above). Authority sought to operate as *contract carrier*, by motor vehicle, over irregular routes, transporting: *Candy*, from Boston, Mass., commercial zone, to warehouse facilities of Letty Lane Co., Inc., located in or near Westville, N.J., under contract with Letty Lane Co., Inc., Box 67, Westville, N.J. 08093, for 180 days. Supporting shipper: Letty Lane Co., Inc., Post Office Box 67, Westville, N.J. 08093. Send protests to: District Supervisor Raymond T. Jones, Interstate Commerce Commission, Bureau of Operations, 402 East State Street, 410 Post Office Building, Trenton, N.J. 08608.

MOTOR CARRIERS OF PASSENGERS

No. MC 102538 (Sub-No. 15 TA) Correction), filed April 18, 1968, published FEDERAL REGISTER, issue of April 25, 1968, and republished as corrected this issue. Applicant: YELLOW COACH LINES, INCORPORATED, Post Office Box 287, Bristol, Va. 24201. Applicant's representative: Clifford E. Sanders, 321 East Center Street, Kingsport, Tenn. 37660. The purpose of this correction is to show the correct docket number assigned thereto, as shown above, in lieu of No. MC 102*513* (Sub-No. 15 TA), which was in error.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 68-5207; Filed, Apr. 30, 1968; 8:47 a.m.]

[Notice 496]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

APRIL 26, 1968.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission, under the Commission's Deviation Rules Revised, 1957 (49 CFR 211.1(e)) at any time, but will not op- interested persons is hereby given as provided in such rules (49 CFR 211.1 (d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(e)) at and time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 38541 (Deviation No. 6), WHITE MOTOR EXPRESS, INC., 321 Benedict Street, Nashville, Tenn. 37213, filed April 16, 1968. Carrier's representative: Richard D. Gleaves, 833 Stahlman Building, Nashville, Tenn. 37201. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation routes as follows: From Nashville, Tenn., over Interstate Highway 40 to Lebanon, Tenn., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: from Nashville, Tenn., over U.S. Highway 31E via Galatin to junction Tennessee Highway 52 (near Westmoreland), thence over Tennessee Highway 52 to Lafayette, Tenn., and (2) from Lafayette, Tenn., over Tennessee Highway 10 to junction Tennessee Highway 25 near Hartsville, Tenn., thence over Tennessee Highway 25 to junction U.S. Highway 231, thence over U.S. Highway 231 to Lebanon, Tenn., and return over the same routes.

No. MC 87786 (Deviation No. 2), LIGHTNING EXPRESS, INC., 2701 Railroad Street, Pittsburgh, Pa. 15222, filed

April 16, 1968. Carrier's representative: John A. Vuono, 2310 Grant Building, Pittsburgh, Pa. 15219. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between Zanesville, Ohio, and Columbus, Ohio, over Interstate Highway 70, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Columbus, Ohio, over U.S. Highway 40 to Washington, Pa., thence over U.S. Highway 19 to Pittsburgh, Pa., and return over the same routes.

No. MC 105902 (Deviation No. 1), PENN YAN EXPRESS, INC., 100 West Lake Road, Post Office Box 396, Penn Yan, N.Y. 14527, filed April 19, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Elmira, N.Y., over New York Highway 17 to Waverly, N.Y., thence over U.S. Highway 220 to Towanda, Pa., thence over U.S. Highway 6 to junction Interstate Highway 81, thence over Interstate Highway 81 to junction Interstate Highway 81E, thence over Interstate Highway 81E to junction U.S. Highway 611, thence over U.S. Highway 611 to Scotrun, Pa., thence over Interstate Highway 80 to Columbia, N.J., thence over U.S. Highway 46 to Budd Lake, N.J., thence over Interstate Highway 80 to Denville, N.J., thence over U.S. Highway 46 to Clifton, N.J., thence over New Jersey Highway 3 to Rutherford, N.J., thence over New Jersey Highway 17 to Newark, N.J., thence over U.S. Highway 1 to Jersey City, N.J., thence across the Hudson River to New York, N.Y., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Elmira, N.Y., over New York Highway 17 to Binghamton, N.Y., thence over U.S. Highway 11 to Scranton, Pa., thence over U.S. Highway 611 to Portland, Pa., thence over U.S. Highway 46 to junction New Jersey Highway 69, thence over New Jersey Highway 69 to junction U.S. Highway 22, thence over U.S. Highway 22 to junction New Jersey Highway 29, thence over New Jersey Highway 29 to Newark, N.J., thence over U.S. Highway 1 to Jersey City, N.J., thence across the Hudson River to New York, N.Y., and return over the same route.

No. MC 109265 (Deviation No. 13), W. L. MEAD, INC., Post Office Box 31, Cleveland Road, Norwalk, Ohio 44857, filed April 15, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Cleveland, Ohio, over Interstate Highway 77 to Akron, Ohio, and (2) from Cleveland, Ohio, over Interstate Highway 71 to junction Ohio Highway 82, thence over Ohio Highway 82 to junction Ohio Highway 10 at or near Laporte, Ohio, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Boston, Mass., over U.S. Highway 20 via Worcester, Mass., Albany, Waterloo, and Depew, N.Y., and Cleveland, Ohio, to Norwalk, Ohio, thence over unnumbered highway to Delphi, Ohio, thence over U.S. Highway 224 to Attica, Ohio, thence over Ohio Highway 4 to Marion, Ohio, thence over U.S. Highway 23 to Columbus, Ohio, (2) from Boston to Cleveland as specified above, thence over Ohio Highway 8 to Akron, thence over Ohio Highway 18 to Norwalk, thence as specified above to Columbus, Ohio, and (3) from Boston to Cleveland as specified above, thence over Ohio Highway 10 to junction U.S. Highway 20 near Oberlin, Ohio, thence as specified above to Columbus, Ohio, and return over the same routes.

No. MC 109538 (Deviation No. 6), CHIPPEWA MOTOR FREIGHT, INC. Post Office Box 269, Eau Claire, Wis. 54701, filed April 15, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Chicago, Ill., over U.S. Highway 34 to Oswego, Ill., thence over Illinois Highway 71 to Ottawa, Ill., thence over U.S. Highway 6 via Peru, Ill., to Briarbluff, Ill., thence over unnumbered highway via Colona and Carbon Cliff, Ill., to Silvis, Ill., thence over Illinois Highway 92 to Moline, Ill., thence over U.S. Highway 6 to Davenport, Iowa, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Chicago, Ill., over U.S. Highway 34 to junction Illinois Highway 65, thence over Illinois Highway 65 to Aurora, Ill., thence over Illinois Highway 31 to Oswego, Ill., thence over U.S. Highway 34 to junction Illinois Highway 92, thence over Illinois Highway 92 via Silvis, Ill., to Moline, Ill., thence over U.S. Highway 6 to Davenport, Iowa, (2) from Chicago, Ill., over U.S. Highway 66 to junction Illinois Highway 53 (portion formerly Alternate U.S. Highway 66), thence over Illinois Highway 53 to Joliet, Ill., thence over U.S. Highway 6 via Peru, Ill., to Briarbluff, Ill., thence over unnumbered highway via Colona and Carbon Cliff, Ill., to Silvis, Ill., thence over Illinois Highway 92 to Moline, Ill., thence over U.S. Highway 6 to Davenport, Iowa, and (3) from Chicago, Ill., over U.S. Highway 66 to junction Illinois Highway 53 (portion formerly Alternate U.S. Highway 66), thence over Illinois Highway 53 to Joliet, Ill., thence over U.S. Highway 52 to junction U.S. Highway 51, thence over U.S. Highway 51 to Peru, Ill., thence over U.S. Highway 6 to Briarbluff, Ill., thence over unnumbered highway via Colona and Carbon Cliff, Ill., to Silvis, Ill., thence over Illinois Highway 92 to Moline, Ill., thence over U.S. Highway 6 to Davenport, Iowa, and return over the same routes.

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Deviation No. 446), GREYHOUND LINES, INC. (Western Division), Market and Fremont Street, San Francisco, Calif. 94106, filed April 18, 1968. Carrier's representative: W. T. Meinhold, 371 Market Street, San Francisco, Calif. 94105. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Phoenix, Ariz., over Interstate Highway 10 to junction Arizona Highway 84 (Picacho Junction), and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service routes as follows: (1) From the point where U.S. Highway 70 intersects the New Mexico-Arizona State line, over U.S. Highway 70 to junction Interstate Highway 10 (East Quartzsite Junction), thence over Interstate Highway 10 to junction unnumbered highway (East Quartzsite), thence over unnumbered highway to junction Interstate Highway 10 (West Quartzsite), thence over Interstate Highway 10 to junction U.S. Highway 70, (Ehrenberg Junction), thence over U.S. Highway 70 to the point where it intersects the Arizona-California State line (connects with California route 258 and New Mexico route 2), (2) from the points where Arizona Highway 86 contacts the New Mexico-Arizona State line, over Arizona Highway 86 to Benson, thence over U.S. Highway 80 to Tucson, thence over Interstate Highway 10 to junction Arizona Highway 84 (Picacho Junction), thence over Arizona Highway 84 to Gila Bend, thence over U.S. Highway 80 to the point where it intersects the Arizona-California State line (connects with California Route 268 and New Mexico Route 4), (3) from Mesa over Arizona Highway 87 to junction Interstate Highway 10, thence over Interstate Highway 10 to Picacho, and (4) from junction Arizona Highway 87 to Arizona Highway 93 (Seaside), over Arizona Highway 93 to Casa Grande, and return over the same routes.

No. MC 1515 (Deviation No. 447), GREYHOUND LINES, INC. (Western Division), Market and Fremont Streets, San Francisco, Calif. 94106, filed April 22, 1968. Carrier's representative: W. T. Meinhold, 371 Market Street, San Francisco, Calif. 94105. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From junction unnumbered highway and California Highway 1 (North Watsonville Junction), over California Highway 1 to junction unnumbered highway south of Watsonville, Calif. (Pajaro Junction), (2) from junction unnumbered highway and California Highway 1 (North Watsonville Junction), over California Highway 1 to junction California Highway 129 (West

Watsonville Junction), thence over California Highway 129 to Watsonville, and (3) from Watsonville over California Highway 129 to junction California Highway 1 (West Watsonville Junction), thence over California Highway 1 to junction unnumbered highway (Pajaro Junction), and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Santa Cruz, Calif., over California Highway 1 to junction unnumbered highway (North Watsonville Junction), thence over unnumbered highway to junction California Highway 1 (Pajaro Junction), thence over California Highway 1 to Monterey, Calif., and return over the same route.

No. MC 29957 (Deviation No. 12), CONTINENTAL SOUTHERN LINES, INC., Post Office Box 4107, Alexandria, La. 71301, filed April 16, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Baton Rouge, La., over Interstate Highway 10 to junction Louisiana Highway 1, thence over Louisiana Highway 1 (an access road) to junction U.S. Highway 190, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Beaumont, Tex., over Texas Highway 12 (formerly Texas Highway 235) via Deweyville, Tex., to the Texas-Louisiana State line, thence over Louisiana Highway 12 (formerly Louisiana Highway 7) via DeQuincy, La., to junction U.S. Highway 190, thence over U.S. Highway 190 via Eunice, Opelousas, and Westover, La., and the new bridge to Baton Rouge, La., thence over U.S. Highway 61 via Gonzales, La., to New Orleans, La., and return over the same route.

No. MC 74761 (Deviation No. 5), TAMIAMI TRAIL TOURS, INC., 4305 21st Avenue, Tampa, Fla. 33610, filed April 17, 1968. Carrier's representative: James E. Wharton, 506 First National Bank Building, Post Office Box 231, Orlando, Fla. 32802. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express*, in the same vehicle with passengers, over a deviation route as follows: From Fort Lauderdale, Fla., over Florida Highway 84 junction U.S. Highway 27 near Andytown, Fla., thence over the Everglades Parkway Toll Road (Florida Highway 838) to junction Florida Highway 858, thence over Florida Highway 858 to Naples, Fla., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Fort Lauderdale, Fla., over U.S. Highway 1 to Miami, Fla., thence over U.S. Highway 41 to Naples, Fla., and return over the same route.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 68-5208; Filed, Apr. 30, 1968; 8:47 a.m.]

[Notice 1175]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

APRIL 26, 1968.

The following publications are governed by Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER issue of April 20, 1966, which became effective May 20, 1966.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 9692 (Sub-No. 3) (Republication), filed December 8, 1967, published in the FEDERAL REGISTER issue of January 5, 1968, and republished this issue. Applicant: ROBERT D. ECKERT, 1049 Lincoln Heights Avenue, Ephrata, Pa. 17522. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. By application filed December 8, 1967, applicant seeks a permit authorizing operations, in interstate or foreign commerce, as a contract carrier by motor vehicle, over regular routes, of the commodities, from Marietta, Pa., to Baltimore, Md., from Marietta, over Pennsylvania Highway 441 to junction U.S. Highway 30, thence over U.S. Highway 30 to junction Interstate Highway 83, thence over Interstate Highway 83 to junction Interstate Highway 695, thence over Interstate Highway 695 to junction Interstate Highway 95, thence over Interstate Highway 95 to Baltimore, and return over the same route, serving no intermediate points. A report and order of the Commission, Operating Rights Board, served April 9, 1968, finds that operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of (1) such commodities as are generally made by a manufacturer of rugs and linoleum, and equipment, materjals, and supplies incidental thereto (except in bulk); and (2) rugs and carpets, from Marietta, Pa., to Baltimore, Md., under a continuing contract with the J. J. Haines & Co., Inc., of Baltimore, Md., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons, who have relied upon the notice of the application as published may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 20992 (Sub-No. 19) (Republication), filed November 22, 1967, published FEDERAL REGISTER issue of December 14, 1967, and republished this issue. Applicant: DOTSETH TRUCK LINE, INC., Knapp, Wis. 54749. Applicant's representative: W. T. Doar, Jr., 103 North Main Avenue, New Richmond, Wis. 54017. By application filed November 22, 1967, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicles, over irregular routes transporting Assembled wood forage boxes with self-unloading metal parts kits and farm wagons, all of which require special equipment, from Glenwood City, Wis., to points in Wisconsin, Minnesota, Iowa, South Dakota, and North Dakota. An order of the Commission, Operating Rights Board, dated March 29, 1968, and served April 22, 1968, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, transporting (1) *wood forage boxes*, (2) *self-unloading metal parts kits for wood forage boxes*, and (3) *farm wagons*, from Glenwood City, Wis., to points in Wisconsin, Minnesota, Iowa, South Dakota, and North Dakota; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder; Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 106679 (Sub-No. 9) (Republication), filed December 11, 1967, published FEDERAL REGISTER issue of December 28, 1967, and republished this issue. Applicant: WHEELER FREIGHTWAYS,

a corporation, 3375 South Polaris, Las Vegas, Nev. 89102. By application filed December 11, 1967, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes of gypsum plaster, and gypsum wallboard (plasterboard), between points in Clark and Lincoln Counties, Nev., and points in Orange, Riverside, and San Bernardino Counties, Calif. An order of the Commission, Operating Rights Board, dated March 29, 1968, and served April 22, 1968, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of gypsum plaster, gypsum wallboard, and gypsum lath, from points in Clark County, Nev., to points in Orange, Riverside, and San Bernardino Counties, Calif.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 108313 (Sub-No. 1) (Republication), filed December 10, 1967, published FEDERAL REGISTER issue of December 28, 1967, and republished this issue. Applicant: CALEDONIA LINES, INC., Ontario, N.Y. 14519. Applicant's representative: Raymond A. Richards, 23 West Main Street, Webster, N.Y. 14580. By application filed December 10, 1967, applicant seeks a permit authorizing operations, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of chemicals, cleaners, detergents, and waxes, in containers, between Barberton, Ohio, on the one hand, and on the other, Branchton, Erie, Greenville, North East, Pittsburgh, Saegertown, and Youngstown, Pa., under a continuing contract with Jones Chemicals, Inc., of Caledonia, N.Y. An order of the Commission Operating Rights Board, dated March 29, 1968, and served April 23, 1968, finds that operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of (1) chemicals, cleaners, detergents and waxes, and (2) empty containers for chemicals, cleaners, detergents and waxes, between Barberton, Ohio, on the one hand, and, on the other, Branchton, Erie, Greenville, North East, Pittsburgh, Saegertown, and Youngstown, Pa., under a continuing contract with Jones Chemicals, Inc., of Caledonia, N.Y., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder; because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 129399 (Republication), filed September 13, 1967, published FEDERAL REGISTER issue of September 28, 1957, and republished this issue. Applicant: KENNETH McGRATH, doing business as McGRATH'S ESSO SERVICE, 831 National Road, Wheeling, W. Va. 26003. Applicant's representative: Andrew J. Goodwin, 500 Terminal Building, Charleston, W. Va. 25301. By application filed September 13, 1967, as amended, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicles, over irregular routes, transporting repossessed motor vehicles, or wrecked or disabled motor vehicles, not including mobile homes, housetrailers, or portable buildings, from other than the scene of the accident or disablement, and of accidentally wrecked or disabled motor vehicles, by the use of wrecker equipment only, from points in West Virginia, to points in Ohio and Pennsylvania. A report of the Commission Review Board No. 3, decided March 8, 1968, and served March 15, 1968, finds that the present and future public convenience and necessity require operation by applicant in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, transporting of *wrecked or disabled motor vehicles* (except mobile homes and housetrailers), by the use of wrecker equipment only, from points in that part of Ohio lying on, south, and east of a line beginning at the Ohio-Pennsylvania State line and extending over Ohio Highway 82 to Warren, Ohio, thence over Ohio Highway 5 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 21, and thence south over U.S. Highway 21 to the Ohio-West Virginia State line, to points in Ohio County, W. Va.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interests may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 129424 (Republication), filed September 25, 1967, published in the FEDERAL REGISTER issue of October 12, 1967, and republished this issue. Applicant: JACK NICHOLS, INC., 4 Fowler Avenue, Ossining, N.Y. 10562. Applicant's representative: William D. Traub, 10 East 40th Street, New York, N.Y. 10016. By application filed September 25, 1967, as amended, applicant seeks a permit authorizing operations, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of (1) filing and storage cabinets, desks, and parts thereof, uncrated, and (2) filing storage cabinets, desks, and parts thereof, crated, when moving in mixed loads with the commodities in (1) above, between Ossining, N.Y., on the one hand, and, on the other, all states along the Atlantic Seaboard and west to and including the States of Alabama, Tennessee, Kentucky, Indiana, and Michigan, and the District of Columbia. A report and order of the Commission, Operating Rights Board, served April 12, 1968, finds that the present and future public convenience and necessity require operation by applicant, in interstate and foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of (1) filing and storage cabinets, desks, and parts thereof, uncrated, and (2) filing and storage cabinets, desks, and parts thereof, crated, when moving in mixed loads with the commodities in (1) above, between Ossining, N.Y., on the one hand, and, on the other, points in Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Virginia, Alabama, Tennessee, Kentucky, Indiana, Michigan, Ohio, West Virginia, Vermont, under a continuing contract with Filex Steel Products Co. of Ossining, N.Y., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons, who have relied upon the notice of the application as published may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper

party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

APPLICATION FOR CERTIFICATES OR PERMITS WHICH IS TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 1.240 TO THE EXTENT APPLICABLE

No. MC 48958 (Sub-No. 99), filed January 10, 1968. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, Denver, Colo. 80216. Applicant's representative: Jack Goodman, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *General commodities* (except household goods, livestock, commodities in bulk, explosives, articles of unusual value, and commodities requiring special equipment), between points in California as follows. Regular routes: (1) Between Project City and San Fernando, from Project City over U.S. Highway 99 to junction U.S. Highway 99E, thence over U.S. Highway 99E to junction U.S. Highway 99 (also from junction U.S. Highway 99 to U.S. Highway 99W, thence over U.S. Highway 99W to junction U.S. Highway 99), thence over U.S. Highway 99 to San Fernando, and return over the same routes, serving all intermediate points on said highways and all off-route points within 20 miles of said highways between Project City and Sacramento, and all off-route points within 5 miles of U.S. Highway 99 between Sacramento and San Fernando, (2) between Colfax and Richmond, over U.S. Highway 40 (Interstate Highway 80), (3) between Auburn and Grass Valley, over California Highway 49, serving all intermediate points on the above-described routes Nos. (2) and (3) and all off-route points within 20 miles of said highways, (4) between King City and Santa Barbara over U.S. Highway 101, serving all intermediate points on said highway, the off-route points of Jalon and Lockwood, and all off-route points within 10 miles of said highway.

(5) Between Project City and Summit City, over unnumbered highway, (6) between Chico and Sterling City over unnumbered highway, (7) between Marysville and Nevada City over California Highway 20, (8) between Colfax and Grass Valley over unnumbered highway, (9) between Geyserville and the Los Angeles-Ventura County Line over U.S. Highway 101, (9a) between Geyserville and Calistoga over California Highway 128, (10) between Fulton and Vallejo, from Fulton over unnumbered highway to Calistoga, thence over California Highway 29 to Vallejo, and return over the same route, (11) between Petaluma and Lodi, from Petaluma over unnumbered highway to California Highway 1, thence over California Highway 1 to Bodega Bay, thence over unnumbered highway to Sebastopol, thence over California Highway 12 to Lodi, and return over the same route, (12) between Ignacio and Napa over California Highway 37 to junction California Highway 121, thence over California Highway 121 to Napa, and return over the same route, (13) between Sears Point and Vallejo over California Highway 37 (formerly California Highway 48), (14) between Cordelia and Fremont over California Highway 21, (15) between San Rafael and Santa Cruz over California Highway 17, (16) between San Francisco and Stockton over U.S. Highway 50, (17) between Oakland and Sacramento, from Oakland over California Highway 24, to junction Interstate Highway 680, thence over Interstate Highway 680 to junction California Highway 4, thence over California Highway 4 to junction California Highway 160, thence over California Highway 160 to Sacramento, and return over the same route, (18) between Pinole and Stockton over California Highway 4, (19) between Concord and Tracy, from Concord over U.S. Highway 680 to junction U.S. Highway 50, thence over U.S. Highway 50 to Tracy, and return over the same route.

(20) Between Pleasanton and Livermore, from Pleasanton over California Highway 238 to junction U.S. Highway 50, thence over U.S. Highway 50 to Livermore, and return over the same route, (21) between Hayward and Carmel, from Hayward over California Highway 9 to Santa Cruz, thence over California Highway 1 to Carmel, and return over the same route, (22) between Watsonville and Aptos over California Highway 1, (23) between unnumbered highway known as Chittenden Pass Highway between Watsonville and its junction with U.S. Highway 101 near San Juan Bautista, over U.S. Highway 101, (24) between Castroville and Hollister over California Highway 156, (25) between Gilroy and Hollister over California Highway 25, (26) between Monterey and Salinas over California Highway 68, (27) between Sacramento and Stockton, from Sacramento over San Joaquin County Highway J8 to junction unnumbered highway, thence over unnumbered highway to Stockton, and return over the same route, (28) between junction California Highway 120 and U.S. Highway 50 near Lathrop, and Escalon, Calif.; over California Highway 120, (29) between Salida and Oakdale, from Salida over U.S. Highway 99 to junction California Highway 108, thence over California Highway 108 to Oakdale, and return over the same route, (30) between Watsonville and Los Banos over California Highway 152, (31) between Clovis and junction unnumbered highway known as Clovis Avenue and junction of California Highway 180, over unnumbered highway known as Clovis Avenue, (32) between Riverside and San Diego over U.S. Highway 395, serving all intermediate points and all off-route points within 5 miles of the above designated highways in connection with Nos. (5) through (32), (33) between Angels Camp and Murphys over California Highway 4, (34) between Sonora and Vallecito (Calaveras County), over unnumbered highway.

(35) Between Sonora and Mill Creek over California Highway 108, serving the off-route points of Pine Crest, Standard, Soulsbyville, and Tuolumne, (36) between Yosemite Junction and Carlon over California Highway 120 serving the off-route points of Moccasin, Mather, Hetch Hetchy Reservoir and Cherry Valley Reservoir, (37) between Carmel and Carmel Valley Post Office (Carmel Village), over unnumbered highway, serving all intermediate points on the above designated haighways in connection with Nos. (33) through (37) and, (38) between Colton and Redlands over Interstate Highway 10. serving all off-route points within 3 miles south of said highway. Irregular routes: (1) Between points in Marin County west of U.S. Highway 101, (2) between points within an area commencing at Auburn, thence southerly over California Highway 49 to Yosemite Junction, thence westerly over California Highway 120 to Manteca, thence northerly over U.S. Highway 99 to Sacramento, thence northeasterly over U.S. Highway 40 to Auburn, (3) between points in that part of San Diego County on and west of U.S. Highway 395 and on and south of California Highway 74, (4) between points within an area 20 miles east of U.S. Highway 99 between Manteca and Fresno, restricted against service on California Highway 140 east of Planada, (5) between points within an area 25 miles north of California Highway 4 between Stockton and Brentwood, (6) between points within an area commencing at San Ardo, thence northerly over U.S. Highway 101 to San Lucas, thence easterly over California Highway 198 to Coalinga, thence southerly over California Highway 33 to McKittrick, thence westerly over California Highway 58 to junction U.S. Highway 101, thence northerly over U.S. Highway 101 to San Ardo, (7) between points on and west of U.S. Highway 101 between Gaviota and the San Antonia River.

(8) between points within an area bounded by U.S. Highway 101 on the west and unnumbered county highway on the east between Santa Maria and Solvang, (9) between points in an area commencing at Tracy, thence southerly over California Highway 33 to Maricopa, thence easterly over California Highway 166 to junction U.S. Highway 99, thence northerly over U.S. Highway 99 to Stockton, thence over U.S. Highway 50 to Tracy, (10) between points in an area commencing at Fresno, thence easterly along California Highway 180 to junction California Highway 69, thence southerly to junction California Highway 65, thence southerly over California Highway 65 to Ducar, thence southwesterly over unnumbered highway to junction U.S. Highway 99, thence northerly on U.S. Highway 99 to Fresno, (11) between points in an area commencing at Ventura, thence northerly over U.S. Highway 33 to junction California Highway 150 near Ojai, thence easterly over California Highway 150 and California Highway 126 to junction U.S. Highway 99, thence southerly over U.S. Highway 99 to the northerly boundary of the Los Angeles Basin territory, thence westerly and southerly to the Pacific Ocean. Between all points in Nos. (1), (2), and (3) in the following territories, Part I San

Francisco territory includes all the city of San Jose and that area embraced by the following boundary:

Beginning at the point the San Francisco-San Mateo County boundary line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to its intersection with Southern Pacific Co. right-of-way at Arastradero Road; southeasterly along the Southern Pacific Co. right-of-way to Pollard Road, including industries served by the Southern Pacific Co. spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to West Parr Avenue; easterly along West Parr Avenue to Capri Drive; southerly along Capri Drive to East Parr Avenue; easterly along East Parr Avenue to the Southern Pacific Co. right-of-way to the Campbell-Los Gatos City limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Alamaden Road; southerly along Alamaden Road to Hillsdale Avenue; easterly along U.S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive, and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the city of Richmond, southwesterly along the highway extending from an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning. Part II Los Angeles Basin territory includes that area embraced by the following boundary:

Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway No. 118 approximately 2 miles west of Chatsworth; easterly along State Highway No. 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the city of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redland Boulevard to U.S. Highway No. 99; northwesterly along U.S. Highway No. 99 to the corporate boundary of the city of Redland; westerly and northerly along said corporate boundary of Brookside Avenue; westerly along U.S. Highway No. 99 to the Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U.S. Highway No. 60; southwesterly along U.S. Highways Nos. 60 and 395 to the county road approximately 1 mile north of Perris; easterly along said county road via Nuevo and Lakeview to the corporate boundary of the city of San Jacinto; easterly, southerly and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to State Highway No. 74; westerly along State Highway No. 74 to the corporate boundary of the city of Hemet; southerly, westerly and northerly along said corporate boundary to the right-of-way of The Atchison, Topeka & Santa Fe Railway Co.; southwesterly along said right-of-way to Washington Avenue; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the county road intersecting U.S. Highway No. 385, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U.S. Highway No. 395; southeasterly along U.S. Highway No. 395 to the Riverside County-San Diego County boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning. Part III San Diego territory consists of the area boundary as follows: Beginning at the junction of Torrey Pines Road and U.S. Highway 101 (4 miles north of La Jolla); thence easterly to Miramar; thence southeasterly to Lakeside, located on State Highway 67; thence southerly to Bostonia; thence southeasterly to Jamul, located on State Highway 94, thence due south to the international boundary; thence westerly along the international boundary to the Pacific Ocean; thence along the Pacific coast to a point due west of the point of beginning; thence due east to the point of beginning.

NOTE: Joinder will take place in the Los Angeles commercial zone and will permit operations between points in California herein sought, on the one hand, and, on the other, points presently authorized to applicant under MC 48958 and subs thereunder. The instant application is a matter directly related to MC-F 9994, published in FEDERAL REGISTER issue January 4, 1968, wherein applicant seeks to purchase the operating rights of California Motor Transport Co., under MC 15506 and (Sub-No. 17). The purpose of the instant application is to convert the certificate of registration under MC 15506 (Sub-No. 17) into a certificate of public convenience and necessity. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-9830. (Republication) (TRANS-COLD EXPRESS, INC.—PURCHASE (PORTION)—MIDWEST EMERY FREIGHT SYSTEM, INC.), published in the August 2, 1967, issue of the FEDERAL REGISTER, on page 11250. The authority sought should read: *Such merchandise*, as is dealt in by wholesale and retail food business houses, and in connection therewith, *equipment, materials, and supplies* used in the conduct of such business, as a *common carrier*, over irregular routes, between Muscatine, Iowa, on the one hand, and, on the other, Louisville, Ky., and points in Illinois (except Chicago), Indiana, and Michigan; (This authority "may not be tacked or joined with any other of vendor's Sub-Nos. 1-72 authorities one to another for the purpose of performing a through service.") and *frozen foods*, from Carrollton, Macon, Marshall, Moberly, and Milan, Mo., to points in Connecticut, Delaware, Indiana, Maine (except points north of Maine Highway 25), Maryland, Massachusetts, Michigan, New Jersey, New York, New Hampshire, Vermont, Ohio, Pennsylvania, and Rhode Island, from Carrollton, Mo., to points in Illinois (except Chicago, Ill.), Iowa, Kentucky, Tennessee, Minnesota, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: Vendee proposes the removal of the restriction "that the separately stated authorities granted above shall not be tacked or joined one to another for the purpose of performing any through transportation." No exceptions were filed to the recommended report and order served March 15, 1968, by Examiner Richard M. Hartsock, recommending grant, and it became effective April 4, 1968. Persons in opposition

to the conclusions of the hearing examiner, may file on or before 30 days from this publication date.

No. MC-F-10090 (Amendment) (BRADA MILLER FREIGHT SYSTEM, INC.—CONTROL—CHICAGO AREA TRUCK LINES, INC.), published in the April 17, 1968, issue of the FEDERAL REGISTER, on page 5908. By amendment filed April 11, 1968, BRADA MILLER FREIGHT SYSTEM, INC., seeks to *control and merge* the operating rights and property of CHICAGO AREA TRUCK LINES, INC., in lieu of control.

No. MC-F-10101. Authority sought for merger into MURPHY MOTOR FREIGHT LINES, INC., 2323 Terminal Road, St. Paul, Minn. 55113, of the operating rights and property of KEESHIN TRANSPORT SYSTEM, INC., 2323 Terminal Road, St. Paul, Minn. 55113, and for acquisition by E. L. MURPHY, JR., and S. L. WASIE, both also of St. Paul, Minn., of control of such rights and property through the transaction. Applicants' attorneys: Axelrod, Goodman and Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Operating rights sought to be merged: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Sandusky, Ohio, and Rocky River, Ohio, between Toledo, Ohio, and Elyria, Ohio, between Elyria, Ohio, and Rocky River, Ohio, between Monroe, Mich., and junction U.S. Highway 24 and Michigan Highway 50, serving no intermediate points, between junction Michigan Highway 50 and U.S. Highway 24, and Cambridge, Mich., serving no intermediate points, and serving junction U.S. Highway 23 and Michigan Highway 50 for the purpose of joinder only, between Cambridge, Mich., and Jackson, Mich., serving no intermediate points, between Toledo, Ohio, and junction U.S. Highways 23 and 112, near Ypsilanti, Mich., serving no intermediate points, and serving junction U.S. Highway 23 and Michigan Highway 50 for the purpose of joinder only, between Jackson, Mich., and Ypsilanti, Mich., serving no intermediate points, between junction U.S. Highway 127 and Michigan Highway 120, and junction U.S. Highway 20 and U.S. Highway 127, near Fayette, Ohio, serving no intermediate points, and serving the termini for the purpose of joinder only, between junction U.S. Highway 27 and Michigan Highway 60, and Coldwater, Mich., serving no intermediate points and serving junction U.S. Highway 27 and Michigan Highway 60 for the purpose of joinder only, between Coldwater, Mich., and Angola, Ind., serving no intermediate points, and serving Angola for the purpose of joinder only.

Between South Bend, Ind., and Elkhart, Ind., between South Bend, Ind., and junction U.S. Highway 20 and Indiana Highway 2, near Rolling Prairie, Ind., serving no intermediate points, between Michigan City, Ind., and junction U.S. Highway 112 and Michigan Highway 205, serving the intermediate point of Niles, Mich., and serving junction U.S. Highway 12 and Indiana Highway 212, for the purpose of joinder only, between Niles, Mich., and junction Michigan Highway 60 and U.S. Highway 131, serving no intermediate points, and serving the termini for the purpose of joinder only, between junction U.S. Highway 12 and Indiana Highway 212, and junction Indiana Highway 212 and U.S. Highway 20, serving no intermediate points, and serving junction U.S. Highway 12 and Indiana Highway 212 for the purpose of joinder only, between Chicago, Ill., and Detroit, Mich., between Toledo, Ohio, and Detroit, Mich., serving all intermediate and certain off-route points, between Jackson, Mich, and Toledo, Ohio, serving all intermediate points, between Homer, Mich., and Adrian, Mich., between Hillsdale, Mich., and Camden, Mich., serving all intermediate and certain off-route points, between Clinton, Mich., and Morenci, Mich., serving all intermediate points, between Detroit, Mich., and the site of the Chrysler Corporation Tank Arsenal, near Detroit, serving no intermediate points, between Detroit, Mich., and Ypsilanti, Mich., serving the intermediate point of Fort Willow Run Plant east of Ypsilanti, Mich., between Toledo, Ohio, and Cleveland, Ohio, serving all intermediate points, between Freeport, Ill., and Chicago, Ill., between Hazel Green, Wis., and Chicago, Ill., serving no intermediate points, but serving certain off-route points, between Dubuque, Iowa, and Chicago, Ill., serving all intermediate points, between Rhinelander, Wis., and Chicago, Ill., serving the intermediate point of Milwaukee, Wis., restricted to southbound traffic for delivery only.

The off-route points of Neenah and Menasha, Wis., restricted to delivery of paper and paper products only; and serving the intermediate and off-route points of Antigo, Wis., and points in the Chicago, Ill., commercial zone, as defined by the Commission without restriction, between junction U.S. Highways 8 and 45 approximately 1 mile west of Monico, Wis., and Eagle River, Wis., serving no intermediate points, between Rhinelander, Wis., and Ironwood, Mich., serving the intermediate points of junction Oneida County Trunk K and U.S. Highway 51, and those between said junction and Ironwood, between Rhinelander, Wis., and Land O'Lakes, Wis., serving all intermediate points, between Rhinelander, Wis., and Land O'Lakes, Wis., serving certain intermediate points, between junction U.S. Highway 51 and County Highway M and Boulder Junction, Wis., between Boulder Junction, Wis., and junction U.S. Highway 51 and County Highway H, between junction Wisconsin Highway 70 and U.S. Highway 51, and Patterson Hardware Co., located about 8 miles west of said junction, serving all intermediate points, between Chicago, Ill., and Milwaukee, Wis., serving all intermediate points; and certain off-route points, between junction U.S. Highway 41 and Illinois Highway 176 and junction U.S. Highway 41 and Wisconsin Highway 43 for operating convenience only, serving no intermediate points; over numerous alternate points for operating convenience only.

General commodities, except those of unusual value, classes A and B explosives, livestock, automobiles, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Toledo, Ohio, and Buffalo, N.Y., serving the intermediate and off-route points within 2 miles of Toledo, Ohio; *cheese factory supplies*, over irregular routes, from Chicago, Ill., to certain specified points in Wisconsin; *packinghouse products*, from Monroe, Wis., and Freeport, Ill., to points in Illinois and Wisconsin within 50 miles of Monroe, not including Madison and Janesville, Wis.; *groceries*, from Chicago, Ill., to certain specified points in Wisconsin; *livestock and agricultural commodities*, between certain specified points in Wisconsin, on the one hand, and, on the other, Chicago, Ill., and points in Illinois within 50 miles of Monroe, Wis., between certain specified points in Wisconsin, on the one hand, and, on the other, Chicago, Ill; *cheese*, between points in that part of Illinois and Wisconsin within 50 miles of Monroe, Wis., including Monroe, between Monroe, Wis., and points in that part of Illinois and Wisconsin within 50 miles of Monroe, on the one hand, and, on the other, certain specified points in Wisconsin, between certain specified points in Wisconsin, on the one hand, and, on the other, Chicago and Dixon, Ill., St. Louis, Mo., and points in Illinois within 50 miles of Monroe, Wis.; *household goods*, as defined by the Commission, between Monroe and Platteville, Wis., and points in Wisconsin within 35 miles of each, on the one hand, and, on the other, points in Illinois and Iowa; *iron and steel articles*, from the plantsite of Jones & Laughlin Steel Corp., located in Putnam County, Ill., to points in Michigan, Ohio, and Wisconsin, with restrictions; and *materials, equipment, and supplies*, used in the manufacture and processing of iron and steel articles, from points in Michigan, Ohio, and Wisconsin, to the plantsite of Jones & Laughlin Steel Corp., located in Putnam County, Ill., with restrictions. MURPHY MOTOR FREIGHT LINES, INC., is authorized to operate as a *common carrier* in Minnesota, Iowa, Wisconsin, Indiana, South Dakota, Illinois, and North Dakota. Application has not been filed for temporary authority under section 210a(b). NOTE: F.D. 25060 is simultaneously filed. MURPHY MOTOR FREIGHT LINES, INC., controls KEESHIN TRANSPORT SYSTEM, INC., through ownership of capital stock pursuant to authority granted in Docket No. MC-F-9807, granted September 25, 1967, by Review Board No. 5, and consummated October 27, 1967.

No. MC-F-10102. Authority sought for control by ALTRAN CORPORATION, 2800 West Bayshore Road, Palo Alto, Calif. 94303, of (1) O. N. C. MOTOR FREIGHT SYSTEM, 2800 West Bayshore Road, Palo Alto, Calif. 94303, (2) SO-CAL MOTOR FREIGHT, of the same address, both of which are presently controlled in a common interest by

applicant's stockholders, and HOPPER TRUCK LINES, 3220 West McDowell Road, Phoenix, Ariz., for merger of the rights and property of (3) HOPPER TRUCK LINES into SO-CAL MOTOR FREIGHT, and for acquisition by DAVID P. ROUSH; CARROLL J. ROUSH, and DIANE G. ROUSH (as custodian for DAVID A. ROUSH, GREGORY P. ROUSH, and BRYAN G. ROUSH, minors) all of Palto Alto, Calif., of control of the aforesaid carriers, rights and properties through the transaction. Applicant's attorneys: John R. Turney, Sr., 342 West Vista Avenue, Phoenix, Ariz. 85021, and Jack R. Turney, Jr., 2001 Massachusetts Avenue NW., Washington, D.C. 20036. Operating rights sought to be controlled and/or merged: (1) *General commodities*, as a *common carrier*, over regular routes between Portland, Oreg., and San Francisco, Calif.; serving the intermediate point of Eureka, Calif.; between Eugene, Oreg., and Oakridge, Oreg., serving all intermediate points between Goshen and Oakridge, not including Goshen, and the of-route points of Lowell and McCredie Springs, Oreg.; *general commodities*, with exceptions between Oakridge, Oreg., and Klamath Falls, Oreg., serving all intermediate points on Oregon Highway 58 without restriction and all intermediate points on U.S. Highway 97 and Oregon Highway 232 restricted to delivery only; between Redding, Calif., and Keswick Dam Site, Calif., serving all intermediate and off-route points within 3 miles of the route.

General commodities, between Redding, Calif., and Kennett, Calif., serving all intermediate points except those on U.S. Highway 99; between Redding, Calif., and Shasta Dam, Calif., serving all intermediate points except those on U.S. Highway 99; *household goods*, as defined by the Commission, and *general commodities* with exceptions between San Francisco, Calif., and Medford, Oreg., serving all intermediate points and the off-route points of South San Francisco, Selby, Alameda, San Leandro, Hilts, and Montague, Calif., and Central Point, Oreg., without restriction; and Eagle Point, Oreg., during the season extending from the 1st day of November to the 31st day of December, inclusive, restricted to pickup of dressed poultry destined to San Francisco, and delivery of wrapping paper and empty boxes used for packing dressed poultry, originating at San Francisco; between San Francisco, Calif., and Klamath Falls, Oreg., serving all intermediate points and the off-route points of South San Francisco, Selby, Alameda, San Leandro, Hilts, and Montague, Calif., and Central Point, Oreg., without restriction; and Eagle Point, Oreg., during the season extending from the 1st day of November to the 31st day of December, inclusive, restricted to pickup of dressed poultry destined to San Francisco, and delivery of wrapping paper and empty boxes used for packing dressed poultry, originating at San Francisco; between Sacramento, Calif., and Mount Shasta, Calif., serving no intermediate points; serving points in California located on that portion of U.S. Highway 99 between Red Bluff and Mount Shasta, including Red Bluff, as intermediate points in connection with said carrier's authorized regular route operations between Sacramento and Mount Shasta, Calif., over U.S. Highways 99W and 99; between Proberta, Calif., and Chico, Calif., serving the intermediate points of Gerber, Tehama, and Los Molinos, Calif., and the off-route points of Vina, Cane, and Nord, Calif.; between San Francisco, Calif., and Reno, Nev., serving the intermediate points of Oakland, Berkeley, Emeryville, Richmond, Roseville, Loomis, Colfax, Truckee, and Sacramento, Calif., and the off-route points of Colma, Alameda, San Leandro, South San Francisco, and Selby, Calif., and the Sacramento, Calif., Air Depot known as McClellan Field and Sparks, Nev.; serving all intermediate points on U.S. Highway 80 between Sacramento, Calif., and Reno, Nev., in connection with carrier's regular-route operations between same termini, restricted to westbound shipments of the above-described commodities, and eastbound shipments of empty containers; between Medford, Oreg., and Eagle Point, Oreg., serving all intermediate and off-route points within 5 miles of Eagle Point, including the U.S. Army Cantonment.

General commodities, with exceptions, between Grants Pass, Oreg., and Medford, Oreg., serving the intermediate points of Rogue River, Gold Hill, and Central Point, Oreg.; between Oakland, Calif., and North Bend, Oreg., serving all intermediate points in Oregon; and the off-route points of Norway, Myrtle Point, Broadbend, and Powers, Oreg., restricted to traffic moving to or from California points authorized under the above-specified commodity description; and the intermediate and off-route points of San Francisco and South San Francisco, Calif., restricted to traffic moving to or from the Oregon points authorized herein; from junction U.S. Highway 101 and unnumbered highway south of San Rafael, Calif., to Oakland, Calif., serving the intermediate and off-route points of San Pablo, Richmond Annex, El Cerrito, Albany, Berkeley, Piedmont, Alameda, San Leandro, and Hayward, Calif., restricted to delivery only; between Coos Bay, Oreg., and Charleston, Oreg., serving all intermediate points; between North Bend, Oreg., and the intersection of Oregon Secondary Highways 240 and 243, as an alternate route for operating convenience only, serving no intermediate points; Butter, butter fat, buttermilk, cheese, cream, eggs, and milk, serving points within 6 miles of Coos Bay, Oreg., and points within 6 miles of Coquille, Oreg., as off-route points in connection with said carrier's regular route operations between Oakland, Calif., and North Bend, Oreg., and between Coquille and junction Oregon Highway 42 and U.S. Highway 99, respectively, restricted to pickup only; petroleum and petroleum products, in containers, from Martinez, Calif., to Grants Pass, Lakeview, and Merrill, Oreg., serving the intermediate points of Avon, Calif., for pickup only, and Klamath Falls, Bly, and Medford, Oreg., for delivery only; empty containers, from Grants Pass, Lakeview, and Merrill, Oreg., to Martinez, Calif., serving the intermediate points of Klamath Falls, Bly, and Avon, Calif., for delivery only.

General commodities, with exceptions, between Portland, Oreg., and Medford, Oreg., serving all intermediate points and the off-route points of Glendale, Oreg., Vancouver, Camas, and Washougal, Wash., except that no local service is authorized between Vancouver, Wash., and Portland and Drain, Oreg., and points on those portions of U.S. Highways 99E, 99W, 99, and 126 and Oregon Highways 225 and 38 between Portland and Drain, Oreg., and those on Oregon Highway 10 between Beaverton and Forest Grove, Oreg., and those on Oregon Highway 47; between Klamath Falls, Oreg., and Goshen, Oreg., serving no intermediate points; between Drain, Oreg., and North Bend, Oreg., serving all intermediate points except Reedsport and points on Oregon Highway 38 between Drain and Reedsport; between Coquille, Oreg., and junction Oregon Highway 42 and U.S. Highway 99, serving all intermediate points; between junction U.S. Highways 99 and 99W and junction Oregon Highway 51 and U.S. Highway 99E, serving all intermediate points, and serving both termini for joinder only; between junction U.S. Highway 99 and Oregon Highway 164 at a point north of Jefferson, Oreg., and junction U.S. Highway 99 and Oregon Highway 164, at a point south of Jefferson, Oreg., serving all intermediate points; between Eugene, Oreg., and junction U.S. Highway 90 and Oregon Highway 225, at or near Goshen, Oreg., serving all intermediate points; between Anlauf, Oreg., and junction U.S. Highway 99 and Oregon Highway 38, serving all intermediate points; between Oakland, Oreg., and Shady Point, Oreg., serving all intermediate points; *general commodities*, over irregular routes, with exceptions between points; *general commodities*, over irregular routes, with exceptions between Medford, Oreg., on the one hand, and, on the other, points in Jackson County, Oreg.; *fresh fruit*, between points in Jackson County, Oreg., on the one hand, and, on the other, Old Hill, Oreg.; *building materials and machinery*, between points in Jackson County, Oreg., on the one hand, and, on the other, points in Del Norte, Siskiyou, and Modoc Counties, Calif.

General commodities, with exceptions, over regular routes between San Francisco, Calif., and San Jose, Calif., serving all intermediate points; between Oakland, Calif., and San Jose, Calif., serving all intermediate points, between Mount Eden, Calif., and San Mateo, Calif., serving no intermediate points; between Centerville, Calif., and Palo Alto, Calif., serving no intermediate points; alternate route for operating convenience only, *general commodities*, with exceptions, between Reno, Nev., and Red Bluff, Calif., serving no intermediate points, in

connection with carrier's otherwise authorized regular route operations; between Lobert, Oreg., and Klamath Falls, Oreg., serving all intermediate points, and with service at Lobert restricted to pickup of shipments only; *general commodities*, with exceptions, between junction U.S. Highway 40 and California Legislative Highway 90, and junction U.S. Highway 99W and California Legislative Highway 90, as an alternate route for operating convenience only, serving no intermediate points, and serving the terminal points for the purpose of joinder only; *general commodities*, with exceptions, serving points in Snohomish County, Wash., west of U.S. Highway 99, except Edmonds, Wash., as off-route points in connection with authorized regular route operations; between Seattle, Wash., and Hoquiam, Wash., serving all intermediate points west of Lacey, Wash., without restriction; Lacey, and those between Seattle and Lacey restricted to traffic moving to or from points west of Lacey; between Aberdeen, Wash., and South Bend, Wash., serving all intermediate points, and the off-route points of Vesta and Brooklyn, Wash.

Between Aberdeen, Wash., and Tokeland, Wash., serving all intermediate points, and the off-route point of Westport, Wash.; between Seattle, Wash., and Bellingham, Wash., serving all intermediate points north of Burlington, Wash.; and serving Burlington and Everett, Wash., and all intermediate points between Burlington and Everett in southbound operations only; between South Bend, Wash., and Long Beach, Wash., serving all intermediate points, and the off-route points in that part of Washington on and southwest of a line beginning at Willapa Bay and extending along the Willapa River to South Bend, Wash., and thence extending in a southeast direction through Grays River, Wash., to the Columbia River; between Astoria, Oreg., and Oysterville, Wash., serving the intermediate and off-route points of Chinook, Ilwaco, Seaview, Long Beach, Ocean Park, and Nahcotta, Wash., and points within 5 miles of route as specified; between Ferndale, Wash., and Bellingham, Wash., serving the intermediate point of North Bellingham, Wash.; between junction Washington Highway 1E and U.S. Highway 99 near Silvana, Wash., and junction U.S. Highway 99 and Washington Highway 1E near Conway, Wash., serving all intermediate points; between Mount Vernon, Wash., and Anacortes, Wash., serving all intermediate points; between Mount Vernon, Wash., and La Conner, Wash., serving all intermediate points; between Seattle, Wash., and Sedro Wooley, Wash., serving the off-route points of Stanwood, East Stanwood, and Clear Lake, Wash.

Household goods, as defined by the Commission, and *general commodities* with exceptions, between Naselle, Wash., and Oysterville, Wash., serving all intermediate points; between Seaview, Wash., and Astoria, Oreg., serving all intermediate points and the off-route points of Knappton, and Stagpole Harbor, Wash.; between Ferndale, Wash., and Neptune Beach, Wash., serving all intermediate points; and the off-route points with 3 miles of Neptune Beach; *general commodities*, with exceptions, between Seattle, Wash., and Prosser, Wash., serving the intermediate point of North Bend, Wash., intermediate points between North Bend and Prosser, intermediate points on the specified portion of Washington Highway 2, intermediate points on U.S. Highway 10 between North Bend and junction U.S. Highway 10 and Washington Highway 2, and the off-route points of Roslyn, Ronald, Thorp, Kittitas, Selah, Naches, Cowiche, Tieton, Harwood, Growmore, Ahtanum, Wiley, Moxee City, Harrah, Pluto, Parker, Toppenish White Swan, and Union Gap, Wash., points on Washington Highway 3A from Parker to Prosser, points on Washington Highway 3B from Toppenish to White Swan, points on Washington Highway 3C from Union Gap, Wash., to junction Washington Highway 3B, and points in the area known as the site of the Hanford Engineer Works in Benton County, Wash., bounded on the north and east by the Columbia River, on the South by the Yakima River, and on the west by the Benton-Yakima County line, unrestricted; and the off-route points of the sites and projects connected with the construction of McNary Dam, Benton County, Wash., and the sites of construction and other projects connected with Prist Rapids Dam, in Grant County, Wash., restricted to the transportation of *general commodities*, with exceptions; between (1) Seattle, Wash., and Puyallup, Wash., and

(2) Auburn Junction, Wash., and Auburn, Wash., serving the intermediate points of Auburn Junction and those on Washington Highway 2M (formerly Washington Highway 5M) between Seattle and Auburn Junction, and those on Washington Highway 5 between Auburn Junction and Auburn, inclusive, restricted to traffic moving to or from points on Washington Highway 2M (formerly Washington Highway 5M) south of Auburn Junction and those on Washington Highway 5 south of Auburn; all other intermediate points without restriction; and the off-route points of Algona, and Pacific City, Wash.; Seattle, Wash., is also restricted to traffic moving to or from points south of Auburn Junction and Auburn, Wash.; between Seattle, Wash., and Portland, Oreg., serving the intermediate point Tumwater, Wash., and intermediate points between Tumwater and Seattle; between Renton, Wash., and Sumner, Wash., serving all intermediate points; between Puyallup, Wash., and Tacoma, Wash., serving all intermediate points; *household goods*, as defined by the Commission, and *general commodities*, with exceptions, between Portland, Oreg., and Pasco, Wash., serving the intermediate points of Zillah, Dalton, Sunnyside, Grandview, Prosser, Kiona, Richland, Kennewick, Camas, Washougal, Stevenson, White Salmon, Bingen, Maryhill, Goldendale, Toppenish, and Buena, Wash., and the off-route point of Yakima, Wash., unrestricted, the off-route points of sites and projects connected with the construction of McNary Dam, Benton County, Wash., restricted to the transportation of general commodities except those of unusual value, classes A and B explosives, livestock, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment, the off-route points of the site of Ice Harbor Dam (located on the Snake River, approximately 10 miles from its mouth near Pasco, Wash.), and points within 15 miles thereof, restricted to the transportation of general commodities, except those of unusual value, classes A and B explosives, livestock, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, and the off-route points of the sites of construction and other projects connected with Prist Rapids Dam, in Grant County, Wash., restricted (1) to service in connection with authorized regular-route operation between Seattle and Pasco, Wash., via Ellensburg, Kakima, and Prosser, Wash., and

(2) To the transportation of general commodities, except those of unusual value, classes A and B explosives, livestock, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading; *hides, pelts, and tallow*, between Bellingham, Wash., and the United States-Canada boundary line, serving no intermediate points; *motor* fuel antiknock compounds, in bulk, in tank vehicles, between Ferndale, Wash., and Neptune Beach, Wash., serving all intermediate points; alternate routes for operating convenience only, *general commodities*, with exceptions, between Burlington, Wash., and Sedro Wooley, Wash., serving no intermediate points; between Centralia, Wash., and Elma, Wash., in connection with carrier's authorized regular-route operations, serving no intermediate points; between Tenino, Wash., and Tacoma, Wash., with no service at the termini or intermediate points except as otherwise authorized; between Tacoma, Wash., and Kosmos, Wash., serving no intermediate points, and with service at Kosmos for the purpose of joinder only; between Mary's Corner, Wash., and Yakima, Wash., serving no intermediate points excepting Kosmos, Wash., for the purpose of joinder only; between Portland, Oreg., and the junction of U.S. Highway 830 and The Dalles Bridge (also know as The Dalles Dam) near North Dalles, Wash., serving no intermediate points and serving the junction of U.S. Highway 830 and The Dalles Bridge for the purpose of joinder only; irregular routes, *general commodities*, with exceptions, between points within 3 miles of Bellingham, Wash., including Bellingham; between points in Skagit County, Wash., on and west of Washington Highway 1A.

Ice, and fresh fish, with exceptions, between points in that part of Washington on and west of a line beginning at

the United States-Canada boundary line, and extending along U.S. Highway 99 via Ferndale and Conway, Wash., to Tumwater, Wash., thence along Washington Highway 1N to Tenino, Wash., thence along unnumbered highway to junction U.S. Highway 99, near Grand Mound, Wash., thence along U.S. Highway 99 to junction unnumbered highway near Centralia, Wash., thence along unnumbered highway via Centralia, Chehalis, Forest, Mary's Corner, and Toledo, Wash., to junction U.S. Highway 99, and thence along U.S. Highway 99 to the Washington-Oregon State line, on the one hand, and, on the other, points in Oregon in the area bounded by a line beginning at Portland, Oreg., and extending north and west along U.S. Highway 30 to Astoria, Oreg., thence along U.S. Highway 101 to junction unnumbered highway, thence along unnumbered highway to Warrenton, Oreg., thence extending directly west to the Pacific Ocean, thence north along the shore of the Pacific Ocean to the mouth of the Columbia River, and thence east and south along the Oregon Shore of the Columbia River to Portland, Oreg., including points in the indicated portions of the specified highways; *motor fuel antiknock compound,* in bulk, in tank vehicles, with restrictions, and *empty shipper-owned trailers* used in the transportation of the said motor fuel antiknock compound, between points in Pierce, King, Snohomish, Skagit, and Whatcom Counties, Wash.

General commodities, over regular routes, with exceptions, between Tokeland, Wash., and Junction Washington State Highway 13A and U.S. Highway 101, located near Raymond, Wash., serving all intermediate points; between Megler, Wash., and Knappton, Wash., serving all intermediate points; *alternate routes for operating convenience only, household goods* as defined by the Commission and *general commodities,* with exceptions, between Sacramento, Calif., and Chico, Calif., in connection with carrier's presently authorized regular-route operation, serving no intermediate points, between Sacramento, Calif., and Woodland, Calif., in connection with carrier's presently authorized regular-route operations between Red Bluff, Calif., and Sacramento, Calif., serving no intermediate points; *general commodities,* over regular routes, with exceptions between Klamath Falls, Oreg., and Eagle Points, Oreg., as an alternate route for operating convenience only, in connection with carrier's presently authorized regular-route operations, serving no intermediate points; alternate route for operating convenience only, *general commodities,* with exceptions, between Kelso, Wash., and Astoria, Oreg., in connection with carrier's presently authorized regular-route operations between Olympia, Wash., and Astoria, Oreg., serving no intermediate points, and serving Kelso for the purpose of joinder only.

General commodities, with exceptions between Lynden, Wash., and Seattle, Wash., serving the intermediate and off-route points of Stanwood, Burlington, and Silvana, Wash., and those in Washington within five miles of Lynden, unrestricted, and serving the intermediate point of Bellingham, Wash., for joinder only; between Bellingham, Wash., and the United States-Canada boundary line at the port of entry at or near Blaine, Wash., serving no intermediate points and serving Bellingham for joinder only; between Bellingham, Wash., and the United States-Canada boundary line at the port of entry at or near Sumas, Wash., serving no intermediate points, and serving Bellingham for joinder only; *irregular routes, ground peat* from the port of entry at or near Blaine, Wash., on the United States-Canada boundary line to points in Pierce and Thurston Counties, Wash.; from the port of entry at or near Blaine, Wash., on the United States-Canada boundary line to points in Whatcom, Skagit, Snohomish, King, and Pierce Counties, Wash.; *berries,* fresh and frozen, processed and unprocessed, in containers, in seasonal operations between May 15 and October 1, of each year, from Sumas and Lynden, Wash., and points in Washington within 5 miles of Lynden, to points in Whatcom, Skagit, Snohomish, King, and Pierce Counties, Wash.; and *empty containers* used in the transportation of berries, from the destination points specified immediately above, to their respective origin points. (2) *General commodities,* with exceptions, over regular routes, between Lynden, Wash., and Seattle, Wash., serving the intermediate and off-route points of Stanwood, Burlington, and Silvana, Wash., and those in Washington within 5 miles of Lynden, unrestricted, and serving the intermediate point of Bellingham, Wash., for joinder only; between Bellingham, Wash., and the United States-Canada boundary line at the port of entry at or near Blaine, Wash., serving no intermediate points, and serving Bellingham for joinder only; between Bellingham, Wash., and the United States-Canada boundary line at the port of entry at or near Sumas, Wash., serving no intermediate points, and serving Bellingham for joinder only; between Everett, Wash., and the United States-Canada boundary line at the port of entry approximately 8 miles north of Oroville, Wash., serving no intermediate points.

Between the junction of U.S. Highways 2 and 97 (north of Wenatchee, Wash.), and Spokane, Wash., serving no intermediate points, and serving the termini for purposes of joinder only, between Seattle, Wash., and the United States-Canada boundary line at the port of entry at or near Eastport, Idaho, serving no intermediate points; between Spokane, Wash., and junction U.S. Highways 195 and 95 at or near Sandpoint, Idaho, serving no intermediate points, and serving the termini for purposes of joinder only; *irregular routes, ground peat,* from the port of entry at or near Blaine, Wash., on the United States-Canada boundary line to points in Pierce and Thurston Counties, Wash.; from the port of entry at or near Blaine, Wash., on the United States-Canada boundary line to points in Whatcom, Skagit, Snohomish, King, and Pierce Counties, Wash.; and (3) *general commodities,* with exceptions, over regular routes: Between San Francisco, Calif., and Los Angeles, Calif., serving all intermediate points and the off-route points of Los Gatos, Watsonville, Monterey, and Solvang, Calif., and points within the San Francisco-Oakland suburban area and Los Angeles suburban area, as defined; between junction U.S. Highway 101 and California Highway 156 (south of Sargent, Calif.), and junction California Highways 156 and 152 (near San Felipe, Calif.), serving all intermediate points; between Hollister, Calif., and junction California Highway 25 and U.S. Highway 101 (south of Gilroy, Calif.), serving all intermediate points; between Pismo Beach, Calif., and Las Cruces, Calif., serving all intermediate points; between Buellton, Calif., and Lompoc, Calif., serving all intermediate points.

Between junction U.S. Highway 101 and California Highway 126 (near Ventura, Calif.), and junction California Highway 126 and U.S. Highway 99 (near Newhall Ranch, Calif.), serving all intermediate points; between Santa Paula, Calif., and junction U.S. Highways 399 and 101 (near Ventura, Calif.), serving all intermediate points; between junction U.S. Highway 101 and California Highway 118 (south of Ventura, Calif.), and Los Angeles, Calif., serving all intermediate points; between El Rio, Calif., and Los Angeles, Calif., serving all intermediate points; serving the following off-route points in California in connection with all regular route operations described in this certificate; Ream Field (near Nestor, Calif.); Fort Emery (near Imperial Beach, Calif.); Imperial Beach; Brown Field (near San Ysidro, Calif.); Naval Auxiliary Air Station (near Holtville, Calif.); Marine Corps Air Station (near El Centro, Calif.); Mira Loma Quartermaster Sub-Depot; San Bernardino U.S. Army Engineers Sub-Depot; San Bernardino Air Technical Service Command Depot; Camp Pendleton (near Oceanside, Calif.); Camp Elliot, Camp Miramar, Camp Kearney Mesa, Fort Rosecrans, and North Island Naval Air Station and Supply Depot (all near San Diego, Calif.); Coronado, Santa Ana Marine Air Station, and the Santa Ana Lighter-Than-Air Base (both near Santa Ana, Calif.); between Los Angeles, Calif., and the United States-Mexico boundary line, serving (1) the intermediate and off-route points of Montebello, Belvedere, Pico, Whittier, La Habra, Fullerton, Anaheim, Yorba, Yorba Linda, Olive, Orange, Wilmington, Terminal Island, Long Beach, Costa, Mesta, Newport Beach, Balboa Beach, Corona Del Mar, Laguna Beach, Aliso Beach, Dana Point, Fallbrook, Bonsall, San Luis Rey, Rainbow, Vista, San Marcos, Escondido, Oceanside, Carlsbad, Encinitas, Solana Beach, Del Mar, San Diego, National City, Chula Vista, Otay, Palm City, Mestor, San Ysidro, Tia Juana; those between Santa Ana and El Toro, Calif., inclusive; those within 5 miles of Oceanside, Calif., those between Oceanside and San Diego, Calif., within 3 miles of the specified route; and

(2) All intermediate points between Los Angeles and Oceanside, Calif., and the off-route points of Huntington Beach and Pala, Calif., in the transportation of *general commodities*, except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading; between Olinda, Calif., and La Habra, Calif., serving the intermediate point of Brea, Calif.; between Los Angeles, Calif., and Yorba Linda, Calif., serving all intermediate points, and the off-route points of Los Nietos and Yorbam, Calif.; between Los Angeles, Calif., and Olive, Calif., serving the intermediate points of Vernon, Maywood, Vinevale, Downey, Norwalk, Artesia, Cypress, and Anaheim, Calif., between Los Angeles, Calif., and Santa Ana, Calif., serving all intermediate points, and the off-route points of Bell, Cudahy, and Dyer, Calif.; between Santa Ana, Calif., and Newport Beach, Calif., serving the intermediate point of Costa Mesa, Calif., and the off-route points within 1 mile of the specified route; between Oceanside, Calif., and Vista, Calif., serving the intermediate and off-route points of San Luis Rey, Calif., and those within 3 miles of the specified route, and those within 5 miles of Oceanside, Calif.; between Los Angeles, Calif., and junction Alternate U.S. Highway 101 and U.S. Highway 101 (at San Clemente, Calif.), serving (1) the intermediate and off-route points of Los Angeles Harbor, Wilmington, Terminal Island, Long Beach, Santa Ana, Costa Mesa, Newport Beach, Balboa Beach, Corona Del Mar, Laguna Beach, Aliso Beach, and Dana Point, Calif.; and (2) all other intermediate points in the transportation of *general commodities*, except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading.

Between Los Angeles, Calif., and Santa Monica, Calif., serving the intermediate points of Hollywood, West Hollywood, Beverly Hills, Westwood, West Los Angeles, and Sawtelle, Calif.; between Santa Monica, Calif., and Santa Ana, Calif., serving the intermediate points of Ocean Park, Venice, Playa Del Rey, Manhattan Beach, Hermosa Beach, Redondo Beach, Palos Verdes, Walteria, Torrance, Lomita, Harbor City, Wilmington, Long Beach, and Garden Grove, Calif.; between Los Angeles, Calif., and Ocean Park, Calif., serving the intermediate points of Culver City, Palms, Sherman, and Venice, Calif.; between Los Angeles, Calif., and El Segundo, Calif., serving the intermediate points of Hyde Park, Inglewood, Lennox, Hawthorne, Lawndale, Redondo Beach, Hermosa Beach, and Manhattan Beach, Calif.; between Los Angeles, Calif., and Terminal Island, Calif., serving the intermediate points of Watts, Lynwood, Compton, and Dominguez, Calif.; between Palos Verdes, Calif., and Point Firmin, Calif., serving the intermediate points of Walteria, Torrance, Lomita, Harbor City, Wilmington, San Pedro, and Fort McArthur, Calif.; between San Diego, Calif., and El Centro, Calif., serving (1) the intermediate points of Pine Valley, Boulevard, Jacumba, Mountain Springs, Coyote Wells, Plaster City, Dixieland, and Seely, Calif., those between San Diego and Pine Valley, Calif.; and the off-route point of Live Oak, Calif., and (2) all other intermediate points in the transportation of *general commodities*, with exceptions; between San Diego, Calif., and junction California State Highway 94 and U.S. Highway 80 (near Boulevard, Calif.) serving (1) the intermediate points of Encanto, Lemongrove, Jamul, Dulzura, Barrett, Potrero, Campo, and White Star, Calif.; and (2) all other intermediate points in the transportation of general commodities, with exceptions; between Potrero, Calif., and the United States-Mexico boundary line, serving the intermediate point of Tecate, Calif.

General commodities, with exceptions, between Long Beach, Calif., and junction California State Highway 19 and U.S. Highway 66 (near Pasadena, Calif.), serving all intermediate points; between Los Angeles, Calif., and Wilmington, Calif., serving all intermediate points; between Anaheim, Calif., and San Bernardino, Calif., serving all intermediate points; between Buena Park, Calif., and junction unnumbered highway (formerly California State Highway 39) and Alternate U.S. Highway 101 (at or near Huntington Beach, Calif.), serving all intermediate points; between Santa Ana, Calif., and junction California State Highway 55 and Alternate U.S. Highway 101 (at or near Newport Beach, Calif.), serving all intermediate points; between San Diego, Calif., and junction California State Highway 75 and U.S. Highway 101 (at or near Palm City, Calif.), serving all intermediate points; between San Francisco, Calif., and Los Angeles, Calif., serving intermediate points on U.S. Highway 99 and the off-route points of Lodi, Stockton, Fort Ord, Farmerville, Fowler, Winston, Centerville, Cutler, Wasco, and Lamont, Calif., and points within the San Francisco-Oakland suburban area and the Los Angeles suburban area, as defined; between junction U.S. Highway 99 and California Highway 153 (near Fairmead, Calif.), and Gilroy, Calif., serving no intermediate points; between junction U.S. Highway 99 and unnumbered highway (north of Fresno, Calif.), and junction California Highway 65 and U.S. Highway 99 (north of Bakersfield, Calif.), serving all intermediate points; between Visalia, Calif., and Lemoore, Calif., serving all intermediate points; between junction U.S. Highway 99 and unnumbered highway (west of Saugus, Calif.), and junction U.S. Highways 6 and 99 (at or near San Fernando, Calif.), serving all intermediate points; between Los Angeles, Calif., and Coachella, Calif.; between Santa Monica, Calif., and Redlands, Calif.; between junction unnumbered highway and U.S. Highway 66 (at or near Sierra Madre, Calif.), and Sierra Madre, Calif.; between Los Angeles, Calif., and Beaumont, Calif.; between Riverside, Calif., and Santa Ana, Calif.; between Orange, Calif., and El Modeno, Calif., between junction U.S. Highway 99 and California Highway 111 (north of Palm Springs, Calif.), and Indio, Calif.; between Coachella, Calif., and Oasis, Calif.; Serving in connection with above-described Routes (1) the intermediate and off-route points of South Pasadena, Pasadena, Yorba Linda, Yorba, Anaheim, Long Beach, Moreno, Costa Mesa, Santa Ana, Orange, Villa Park, Fullerton, Olive, Peralta, Prado, Corona, Arlington, High Grove, Colton, Redlands, Highlands, Pomona, Ontario, Mira Loma, Riverside, San Bernardino, Beaumont, Banning, Cabazon, White Water, Palm Springs, Cathedral City, Indiana Wells, Indio, Garnet, Edom, Coachella, Thermal, and Mecca, Calif., those between Ontario and Riverside, Calif., within 3 miles of the specified routes; those between Beaumont and Mecca, Calif., within 10 miles of the specified routes; and

(2) All intermediate points between Santa Monica and San Bernardino, Calif., on U.S. Highway 66 those between Los Angeles and Beaumont, Calif., on U.S. Highway 99, and those between Los Angeles and Ontario, Calif., on U.S. Highway 60, and the off-route point of Yucaipa, Calif., in the transportation of general commodities, except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading; between junction U.S. Highway 99 and unnumbered highway (near White Water, Calif.), and the site of the Marine Corps Training Center (approximately 7 miles north of Twentynine Palms, Calif.), serving all intermediate points; between Los Angeles, Calif., and Sunland, Calif., serving the intermediate points of Glendale, La Canada, Montrose, La Crescenta, Highway Highlands, and Tujunga, Calif., and the off-route point of Verdugo City, Calif.; between Los Angeles, Calif., and Sunland, Calif., serving (1) the intermediate point of Glendale, Calif., and the off-route point of Verdugo City, Calif.; and (2) the intermediate point of Burbank, Calif., in the transportation of *general commodities*, except those of unusual value, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading.

Between Sun Valley, Calif., and Sunland, Calif., serving all intermediate points; betwen La Canada, Calif., and Glendale, Calif., serving all intermediate points, between San Bernardino, Calif., and San Diego, Calif., serving (1) the intermediate and off-route points of Highgrove, Riverside, March Field, Allesandro, Val Verde, Perris, Elsinore, Murrieta, Temecula, Fallbrook, Bonsall, Vista, and San Marcos, Calif., those between San Bernardino and Perris, Calif., within 5 miles of the specified route; those between Perris and Escondido, Calif., within 3 miles of the specified route; those within 5 miles of Escondido, Calif.; those within 5 miles of Fallbrook,

Calif., and (2) all intermediate points between Riverside, Calif., and junction U.S. Highway 395 and California Secondary Highway S13 (formerly old U.S. Highway 395) approximately 2 miles south of Rainbow, Calif., inclusive, and between Escondido and San Diego, Calif., inclusive, in the transportation of *general commodities*, except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading; between Perris, Calif., and Idyllwild, Calif., serving (1) the intermediate and off-route points of Ethanac, Romoland, Hemet, San Jacinto, Moreno, Gilmar Hot Springs, Soboba Hot Springs, and Keen Camp, Calif.; those between Perris and Hemet, Calif., within 5 miles of the specified route, and (2) all intermediate points between Hemet and Idyllwild, Calif., in the transportation of *general commodities*, except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading; between Hemet, Calif., and junction California Highway 79 and U.S. Highway 60 (about 5 miles east of Sunnymeade, Calif.), serving all intermediate points; between junction U.S. Highway 395 and California Secondary Highway S13 (formerly old U.S. Highway 395), approximately 2 miles south of Rainbow, Calif., and Escondido, Calif., serving all intermediate points, and the off-route point of the U.S. Naval Fallbrook Ammunition Depot; between Coachella, Calif., and the United States-Mexico boundary line, at Calexico, Calif., serving (1) all intermediate points, and

(2) Also serving the intermediate points of Westmoreland, Brawley, Imperial, El Centro, Heber, and Calexico, Calif., in the transportation of *general commodities*, except those of unusual value, household goods as defined by the Commission, petroleum products in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading; between Mecca Calif., and the United States-Mexico boundary line, at Calexico, Calif., serving all intermediate points; between Calipatria, Calif., and Brawley, Calif., serving the intermediate points of Westmoreland, Calif.; between El Centro, Calif., and the California-Arizona State line, serving (1) the intermediate points of Holtville and Winterhaven, Calif., and (2) all other intermediate points in the transportation of *general commodities*, except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading; *alternate route for operating convenience only, general commodities*, with exceptions, between Los Angeles, Calif., and El Centro, Calif., serving no intermediate points; *general commodities* (moving on Government bills of lading) over regular routes, with exceptions, from Los Angeles, Calif., to Port Chicago, Calif., serving the intermediate and off-route points of Alameda, Oakland, and Port Hueneme, Calif.; from Port Hueneme, Calif., to Nebo and West Yermo, Calif., serving no intermediate points; *irregular routes*, classes A, B, and C explosives moving on Government bills of lading, from Fallbrook, Calif., to Port Chicago, Calif., with no transportation for compensation on return except as otherwise authorized; *general commodities*, with exceptions, over regular routes between the junction of U.S. Highway 99 and California Highway 120, approximately 2 miles east of Manteca, Calif., and Richmond, Calif., serving the intermediate point of Sacramento, Calif., for purpose of interchange only; between the junction of U.S. Highway 50 and California Highway 50 and California Highway 120, approximately 4 miles west of Manteca, Calif., and Richmond, Calif., serving the intermediate point of Sacramento, Calif., for purpose of interchange only.

General commodities, with exceptions, over regular routes, between Los Angeles Harbor, Calif., and Tucson, Ariz., with service authorized to and from the intermediate points of Yuma, Ariz., restricted to traffic moving to or from points other than those in Imperial County, Calif., and with service between Los Angeles Harbor and Los Angeles, inclusive, restricted to traffic originating at or destined to points east of Los Angeles on the above-described route, all other intermediate points unrestricted, and service authorized to and from off-route points in the Los Angeles commercial zone, and the Los Angeles Harbor commercial zone, as defined by the Commission in the Los Angeles, Calif., commercial zone, 3 M.C.C. 284, those within 15 miles of Truck Boulevard between Los Angeles Harbor and Los Angeles, Calif., restricted to traffic originating at and destined to points east of Los Angeles on above-described routes, those within 25 miles of Tucson, Ariz., and those in Arizona within 10 miles of the above-specified routes, unrestricted; points and places in Imperial County, Calif., restricted to traffic moving to or from points other than Yuma, Ariz.; between Tucson, Ariz., and San Manuel, Ariz., serving no intermediate points, but serving off-route points within 5 miles of San Manuel; the service authorized herein restricted to the transportation of traffic which carrier originates, or receives from connecting carriers, at points outside Arizona; *Government-owned compressed gas trailers*, loaded with compressed gas (other than liquified petroleum gas) or empty, between Los Angeles Harbor, Calif., and Tucson, Ariz., serving the intermediate point of Yuma, Ariz., restricted to traffic originating at or destined to points east of Los Angeles, on the routes described below, and serving all other intermediate points unrestricted, and serving off-route points in the Los Angeles, Calif., commercial zone, and the Los Angeles Harbor, Calif., commercial zone, as defined by the Commission, those within 15 miles of Truck Boulevard between Los Angeles Harbor and Los Angeles, restricted to traffic originating at or destined to points east of Los Angeles, on the routes described below, those within 10 miles of the described routes, unrestricted, and points in Imperial County, restricted to traffic moving to or from points other than Yuma; *general commodities*, with exceptions, over irregular routes, between Tucson, Ariz., on the one hand, and, on the other, missile sites located in Pinal, Cochise, Pima, and Santa Cruz Counties, Ariz. Applicant, ALTRAN CORPORATION is a noncarrier. Application has not been filed for temporary authority under section 210a(b). NOTE: F.D. 25064 and F.D. 25071 are concurrently filed related applications for ALTRAN CORPORATION and SO-CAL MOTOR FREIGHT, respectively, to issue securities required in the transaction.

No. MC-F-10103. Authority sought for purchase by BLUE BIRD CAB CO., INC., 502-504 North Barry Street, Olean, N.Y. 14760, of the operating rights and property of the JOE MAGNANO, doing business as BLUEBIRD CAB COMPANY, 502-504 North Barry Street, Olean, N.Y. 14760, and for acquisition by JOE MAGNANO, and LOUIS A. MAGNANO, both also of Olean, N.Y., of control of such rights and property through the purchase. Applicants' attorney: Kenneth T. Johnson, Bank of Jamestown Building, Jamestown, N.Y. 14701. Operating rights sought to be transferred: *Cash, letters, and other paper moving therewith*, as a *contract carrier*, over irregular routes, between Olean, N.Y., Bradford, Smethport, and Eldred, Pa., Restriction: The above described operations are limited to a transportation service to be performed under a continuing contract, or contracts, with banking institutions. BLUE BIRD CAB CO., INC., holds no authority from this Commission. However, its controlling stockholders are affiliated with BLUE BIRD COACH LINES, INC., 502-504 North Barry Street, Olean, N.Y. 14760, which is authorized as a *common carrier*, in all points in the United States (except Alaska and Hawaii); and ALLEN'S TAXI CO., INC., 502-504 North Barry Street, Olean, N.Y. 14760, which is authorized to operate as a *common carrier* in New York, Ohio, and Pennsylvania. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10104. Authority sought for control by EDGAR B. YOUNGER, Post Office Box 14048, Houston, Tex. 77021, of (1) YOUNGER BROTHERS, INC., Post Office Box 14048, Houston, Tex. 77021, and (2) YOUNGER TRANSPORTATION, INC., Post Office Box 14066, Houston, Tex. 77021. Applicants' attorney: Ewell H. Muse, Jr., 415 Perry Brooks Building, Austin, Tex. 78701. Operating rights sought to be controlled: (1) *Petroleum and petroleum products*, in bulk, in tank trucks, and numerous other specified commodities, as a *common carrier*, over irregular routes, from, to, and between specified points in all points in the United States (except Alaska and Hawaii), with certain restrictions, as more specifically described

in Docket No. MC-531 and subnumbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating, in full, the entirety, thereof. (2) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts; and *machinery, equipment, materials, and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, as a *common carrier*, over irregular routes, between points in Lea and Eddy Counties, N. Mex., and those in Texas, Oklahoma, Louisiana, Kansas, Mississippi, Alabama, Florida, and Georgia.

Machinery, equipment, materials, and supplies used in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, distribution of natural gas and petroleum and their products and byproducts; and *machinery, equipment, materials, and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, except the stringing and picking up of pipe in connection with main pipelines, between points in Texas, on the one hand, and, on the other, points in Colorado, Wyoming, Utah, Montana, North Dakota, and South Dakota; *machinery and equipment* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of sulphur and its products, and *materials and supplies* (not including sulphur) used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of sulphur and its products, restricted to the transportation of shipments of materials and supplies moving to or from exploration, drilling, production, job construction, plant (including refining, manufacturing, and processing plant), sites or storage sites, between points in Lea and Eddy Counties, N. Mex., and those in Texas, Oklahoma, Louisiana, Kansas, and Mississippi, between points in Texas, on the one hand, and, on the other, points in Wyoming.

Machinery, equipment, materials, and supplies used in, or in connection with, the drilling of water wells, between points in Lea and Eddy Counties, N. Mex., and those in Texas, Oklahoma, Louisiana, Kansas, Mississippi, Alabama, Florida, and Georgia, between points in Texas, on the one hand, and, on the other, points in Colorado, Wyoming, Utah, Montana, North Dakota, and South Dakota; *machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing storage, transmission and distribution of natural gas and petroleum and their products and byproducts; and, *machinery, materials, equipment and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, except the picking up or stringing of pipe in connection with main or trunk pipelines, between points in Texas, Oklahoma, and Lea and Eddy Counties, N. Mex., on the one hand, and, on the other, points in Nevada; *machinery, equipment, materials, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and byproducts, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-way, between points in Lea and Eddy Counties, N. Mex., and points in Texas, Oklahoma, Louisiana, Kansas, Mississippi, Alabama, Florida, and Georgia, between points in Texas, on the one hand, and, on the other, points in Colorado, Wyoming, Utah, Montana, North Dakota, and South Dakota, between points in Texas, Oklahoma, and Lea and Eddy Counties, N. Mex., on the one hand, and, on the other, points in Nevada.

Machinery, materials, supplies, and equipment, used in the discovery, development, and production of sulphur, between points in Mississippi, on the one hand, and, on the other, points in Louisiana; *lard, tallow, fertilizer, bags, and cans*, between New Orleans, La., and Harvey, La.; *canned shrimp*, from Harvey, La., to New Orleans, La.; and *earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in Lea and Eddy Counties, N. Mex., and points in Texas, Oklahoma, Louisiana, Kansas, Mississippi, Alabama, Florida, and Georgia, between points in Texas, on the one hand, and, on the other, points in Colorado, Wyoming, Utah, Montana, North Dakota, and South Dakota, between points in Texas, Oklahoma, and Lea and Eddy Counties, N. Mex., on the one hand, and, on the other, points in Nevada.

No. MC-F-10105. Authority sought for purchase by SCHNEIDER TRANSPORT & STORAGE, INC., 817 McDonald Street, Green Bay, Wis. 54306, of a portion of the operating rights of McDOWELL TRUCK LINE, INC. (Michael M. Davis, debtor-in-possession), 2310 West 78th Street, Chicago, Ill. 60620. Applicants' attorney: Charles W. Singer, 33 North Dearborn Street, Chicago, Ill. 60602. Operating rights sought to be transferred: *Papermill products*, as a *common carrier*, over regular and irregular routes, from Hamilton, Ohio, to points in a specified portion of Illinois, serving all intermediate points on the specified route; *materials and supplies*, used in the manufacture and shipment of papermill products, from points in a specified portion of Illinois to Hamilton, Ohio, serving all intermediate points on the specified route; *papermill products*, over irregular routes, from Hamilton, Ohio, to Fort Wayne, Ind.; *materials and supplies*, used in the manufacture and shipment of papermill products, from Fort Wayne, Ind., to Hamilton, Ohio; *paper and paper products*, from Hamilton, Ohio, to that part of Indiana on and north of U.S. Highway 40 (except Fort Wayne), and to Milwaukee, Racine, and Beloit, Wis.; and *steel strapping, paper and paper products, and materials and supplies* used in the manufacture and shipping of paper and paper products, from points in that part of Indiana on and north of U.S. Highway 40 (except Fort Wayne), and Milwaukee, Racine, and Beloit, Wis., to Hamilton, Ohio. Vendee is authorized to operate as a *common carrier* in Wisconsin, Michigan, Illinois, Indiana, Iowa, Kansas, Kentucky, North Dakota, Ohio, Pennsylvania, South Dakota, New York, New Jersey, Minnesota, Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, Mississippi, Missouri, Nebraska, New Hampshire, North Carolina, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Louisiana, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-10106. Authority sought for control by CARTWRIGHT VAN LINES, INC., 4411 East 119th Street, Grandview, Mo. 64030, of JUDITH L. McKEEVER, doing business as WEBSTER VAN LINES, 24010 52d Avenue West, Mount Lake Terrace, Wash. 98043, and for acquisition by Mr. and Mrs. WM. F. CARTWRIGHT, SR., 100 East 127th Street, Kansas City, Mo., WM. F. CARTWRIGHT, JR., 12806 14th Street, Grandview, Mo., MICHAEL CARTWRIGHT, 9511 Grandview Road, Kansas City, Mo., and THOMAS W. CARTWRIGHT, 605 West 69th Terrace, Kansas City, Mo., of control of JUDITH L. McKEEVER, doing business as WEBSTER VAN LINES, through the acquisition by CARTWRIGHT VAN LINES, INC. Applicants' representative: Wm. F. Cartwright, Jr., 4411 East 119th Street, Grandview, Mo. 64030. Operating rights sought to be controlled: *Household* goods as defined by the Commission, as a *Common carrier*, over irregular routes, between points in Weber County, Utah, on the one hand, and, on the other, certain specified points in Idaho and Wyoming. CARTWRIGHT VAN LINES, INC., is authorized to operate as a *common carrier* in all points in the United States (except

Alaska, Nevada, and North Dakota). Application has been filed for temporary authority under section 210a(b).

No. MC-F-10107. Authority sought for merger into DIXIE HIGHWAY EXPRESS, INC., 1900 Vanderbilt Road, Birmingham, Ala. 35202, of the operating rights and property of JACK COLE COMPANY, 1900 Vanderbilt Road, Birmingham, Ala. 35202, and for acquisition by JACK COLE COMPANY, also of Birmingham, Ala., and, in turn by 2625 TERRITORIAL ROAD CO., 2625 Territorial Road, St. Paul, Minn., and ROBERT E. SHORT, Leamington Hotel, Minneapolis, Minn., of control of such rights and property through the transaction. Applicants' attorneys: John R. Turney, 342 West Vista Avenue, Phoenix, Ariz. 85021, and Jack R. Turney, Jr., 2001 Massachusetts Avenue NW., Washington, D.C. 20036. Operating rights sought to be merged: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Montgomery, Ala., and New York, N.Y., serving junction U.S. Highways 80 and 29, and Atlanta, Ga., for purposes of joinder only, between Montgomery, Ala., and Detroit, Mich., serving Birmingham, Ala., and all points in Tennessee for purposes of joinder only, between Montgomery, Ala., and Cleveland, Ohio, serving Birmingham, Ala., and all points in Tennessee for purposes of joinder only, serving certain intermediate and off-route points, with restrictions, between Birmingham, Ala., and Selma, Ala., serving the intermediate points of Centerville and Brent, Ala., and those between Centerville and Brent, restricted to traffic originating at or destined to points north of Centerville or south of Brent; all other intermediate points without restriction, between Browns, Ala., and Mobile, Ala., serving all intermediate points.

General commodities except explosives and commodities requiring special equipment, between Birmingham, Ala., and New York, N.Y., serving Harrisburg, Pa., and junction U.S. Highways 22 and 1 for purposes of joinder only, between Chattanooga, Tenn., and junction U.S. Highways 70 and 11, between Chambersburg, Pa., and junction U.S. Highways 1 and 22, serving Chambersburg, Pa., and junction U.S. Highways 1 and 22 for purposes of joinder only, between Winchester, Va., and Philadelphia, Pa., serving Winchester, Va., junction Virginia Highway 7 and U.S. Highway 340, Frederick and Baltimore, Md., for purposes of joinder only, between Birmingham, Ala., and Baltimore, Md., serving Athens, Ga., Danville and Richmond, Va., and Baltimore, Md., for purposes of joinder only, between Athens, Ga., and Richmond, Va., serving Athens and Washington, Ga., Columbia, S.C., and Richmond, Va., for purposes of joinder only, between Raleigh, N.C., and Philadelphia, Pa., serving Raleigh and Williamston, N.C., and Wilmington, Del., for purposes of joinder only, between Birmingham, Ala., and Detroit, Mich., serving Louisville, Ky., for purposes of joinder only, between Pulaski, Tenn., and Nashville, Tenn., between Bedford, Ky., and Cincinnati, Ohio, serving Bedford, Ky., for purposes of joinder only, between Louisville, Ky., and Detroit, Mich., serving Louisville, Ky., and Somerset, Mich., for purposes of joinder only, between Cincinnati, Ohio, and Cleveland, Ohio, between Cincinnati, Ohio, and Salem, Ohio, between Columbus, Ohio, and Cambridge, Ohio, between Birmingham, Ala., and Franklin, Tenn., serving Gadsden and Huntsville, Ala., for purposes of joinder only.

Between Indianapolis, Ind., and Chicago, Ill., between Nashville, Tenn., and Chicago, Ill., serving Hopkinsville, Ky., for purposes of joinder only, between Nashville, Tenn., and junction U.S. Highways 41 and 52, serving Owensboro, Ky., for purposes of joinder only, between junction U.S. Highways 40 and 231, and Lafayette, Ind., between Birmingham, Ala., and Chicago, Ill., serving Decatur, Ala., Corinth, Miss., and Fulton, Ky., for purposes of joinder only, between Birmingham, Ala., and Memphis, Tenn., between Corinth, Miss., and Memphis, Tenn., serving Corinth, Miss., for purposes of joinder only, serving certain intermediate and off-route points, with restrictions; *general commodities*, except explosives, and commodities requiring special equipment, over irregular routes, between Birmingham, Ala., and points within 15 miles of Birmingham, on the one hand, and, on the other, points in the Philadelphia, Pa., commercial zone, as defined by the Commission, those in the New York, N.Y. commerical zone, as defined by the Commission in 1 M.C.C. 665, Detroit, Mich., certain specified points in Illinois, points in Indiana, Ohio, and Tennessee; *general commodities*, excepting, among others, household goods and commodities in bulk, between certain specified points in Alabama, on the one hand, and, on the other, points in the Philadelphia, Pa., commercial zone as defined by the Commission, those in the New York, N.Y., commercial zone, as defined by the Commission in 1 M.C.C. 665 and 2 M.C.C. 191, points in Ohio and Indiana, certain specified points in Illinois, and Detroit, Mich., between the Anniston Ordnance Depot, near Anniston, Ala., on the one hand, and, on the other, points in the Philadelphia, Pa., commercial zone, as defined by the Commission, points in the New York, N.Y., commercial zone as defined by the Commission, points in Ohio, Indiana, certain specified points in Illinois, and Detroit, Mich., between the site of the Kelsey-Hayes Co. plant, located at the intersection of North Line Road and Huron River Drive, Romulus Township, Wayne County, Mich., on the one hand, and, on the other, Birmingham, Ala., and points within 15 miles of Birmingham, between the above-specified plantsite, on the one hand, and, on the other, certain specified points in Alabama, between Dothan, Ala., on the one hand, and, on the other, Cedar Springs, Ga., and the plantsite of the Southern Land, Timber and Pulp Corp. near Cedar Springs, between certain specified points in New Jersey, New York, and Pennsylvania.

Between the plantside of the DeVilbiss Co., located at Van Buren Township, Wayne County, Mich., on the one hand, and, on the other, Birmingham, Ala., and points within 15 miles of Birmingham, between the plantside of the DeVilbiss Co., located at Van Buren Township, Wayne County, Mich., on the one hand, and, on the other, certain specified points in Alabama; between Duek, Ala., on the one hand, and, on the other, Anniston and Gadsden, Ala., with restriction; *cast iron articles*, from Gadsden and Anniston, Ala., to points in the Philadelphia, Pa., commercial zone as defined by the Commission, those in the New York, N.Y., commercial zone as defined by the Commission in 1 M.C.C. 665, Detroit, Mich., certain specified points in Illinois, and those in Indiana, Ohio, and Tennessee; *marble*, from Gantts Quarry, Ala., to the immediately above points and territories; *alcoholic beverages*, from Cincinnati, Ohio, to Montgomery, Ala.; *tires and tubes*, from Gadsden, Ala., to Akron, Ohio; *cotton factory products*, from certain specified points in Alabama, to points in the Philadelphia, Pa., commercial zone as defined by the Commission, and those in the New York, N.Y., commercial zone as defined by the Commission in 1 M.C.C. 665; *aluminum products*, from Listerhill and Sheffield, Ala., to Flat Rock and Detroit, Mich., points in Ohio and Indiana, and certain specified points in Illinois, from the plantsite of Revere Copper and Brass, Inc., located at Scottsboro, Ala., to Philadelphia, Pa., points in the New York, N.Y., commercial zone as defined by the Commission, certain specified points in Michigan, Illinois, and points in Indiana, and Ohio; *aluminum scrap*, from the destination points and areas as immediately above, to the plantsite of Revere Copper and Brass Inc., at Scottsboro, Ala.; *tire fabric*, from Decatur, Ala., to Akron, Ohio; *copper, brass, and aluminum tubing*, from Decatur, Ala., to New York, N.Y., Cranston, R.I., and Boston, Mass.; *chemical insecticides*, from the site of the Huntsville Arsenal, near Huntsville, Ala., to New York, N.Y., with restriction; *aluminum and aluminum products*, from Listerhill and Sheffield, Ala., to Monroe, Mich., with restriction; *textile products*, from certain specified points in Alabama, to Opelika, Ala.; *iron and steel articles*, from the plantside of Jones & Laughlin Steel Corp., located in Putnam County, Ill., to certain specified points in Alabama, with restrictions; and materials, equipment, and supplies used in the manufacture and processing of iron and steel articles, from certain specified points in Alabama, to the plantsite of Jones & Laughlin Steel Corp., located in Putnam County, Ill., with restriction. Application has not been filed for temporary authority under section 210a(b). NOTE: Applicants proposes that the name of the surviving company shall be changed to JACK COLE-DIXIE HIGHWAY COMPANY.

No. MC-F-10108. Authority sought for control and merger by THE MASON &

DIXON LINES, INCORPORATED, Post Office Box 969, Kingsport, Tenn. 37662, of the operating rights and property of YANKEE LINES, INC., 1400 East Archwood Avenue, Akron, Ohio, and for acquisition by E. WARD KING, 1349 Linville Street, Kingsport, Tenn., E. WILLIAM KING, 1315 Belmeade Drive, Kingsport, Tenn., JOHN R. KING, 4505 Hickory Hill Road, Kingsport, Tenn., and MARGARET K. NORRIS, 2120 Montrose Avenue, Kingsport, Tenn., of control of such rights and property through the transaction. Applicants' attorneys: Harris J. Klein, 280 Broadway, New York, N.Y. 10007, and A. David Millner, 744 Broad Street, Newark, N.J. 07102. Operating rights sought to be controlled and merged: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Akron, Ohio, and Canton, Ohio, between Akron, Ohio, and Elyria, Ohio, between Wheeling, W. Va., and Weirton, W. Va., between Sandusky, Ohio, and Wooster, Ohio, between Washington, D.C., and Frederick, Md., between Washington, D.C., and Baltimore, Md., between Camden, N.J., and Salem, N.J., between Camden, N.J., and Atlantic City, N.J., between Columbus, Ohio, and Tiffin, Ohio, between Cleveland, Ohio, and Warren, Ohio, between Canton, Ohio, and Steubenville, Ohio, between Youngstown, Ohio, and Conneaut, Ohio, between Conneaut, Ohio, and Niles, Ohio, between Pittsburgh, Pa., and New Castle, Pa., between Pittsburgh, Pa., and Butler, Pa., between Muncy, Pa., and Bloomsburg, Pa., between Millersburg, Pa., and Stroudsburg, Pa., between Lancaster, Pa., and Oxford, Pa., serving no intermediate points.

Between Cincinnati, Ohio, and Philadelphia, Pa., serving all intermediate points, the off-route points of Lockland and Xenia, Ohio, and those off-route points within 10 miles of Philadelphia, Pa., between Akron, Ohio, and Philadelphia, Pa., serving all intermediate points and the off-route points of Niles, Ohio, and Waynesboro, Pa., between Canton, Ohio, and Youngstown, Ohio, serving the intermediate point of Salem, Ohio, and the off-route point of Alliance, Ohio, between Barberton, Ohio, and Tiffin, Ohio, serving the intermediate point of Wadsworth, Ohio, between Barberton, Ohio, and Cambridge, Ohio, serving all intermediate points, between Canton, Ohio, and Bridgeport, Ohio, serving the intermediate point of Uhrichsville, Ohio, but with no service at Bridgeport, between Pittsburgh, Pa., and Salem, Ohio, serving the intermediate point of Aliquippa, Pa., and the off-route point of Ambridge, Pa., between Pittsburgh, Pa., and Conneaut, Ohio, serving the intermediate point of Erie, Pa., between Cleveland, Ohio, and Newcastle, Pa., serving the intermediate point of Barberton, Ohio, and the off-route points of Magadore and Jaite, Ohio, between Bridgeport, Ohio, and East Liverpool, Ohio, serving the intermediate point of Toronto, Ohio, but with no service at Bridgeport, between Steubenville, Ohio, and Ebensburg, Pa., serving the intermediate point of Pittsburgh, Pa., between Lancaster, Pa., and Mansfield, Ohio, serving all intermediate points and the off-route point of McKeesport, Pa., between Harrisburg, Pa., and Philadelphia, Pa., serving all intermediate points and the off-route points of Quakertown and Conshohocken, Pa., between Cumberland, Md., and Gettysburg, Pa., serving all intermediate points but no service at Cumberland, between Hagerstown, Md., and Scranton, Pa., serving all intermediate points, and the off-route points of Nanticoke and Luzerne, Pa., between Kingston, Pa., and Avoca, Pa., serving the intermediate point of Wilkes-Barre, Pa., between Philadelphia, Pa., and Scranton, Pa., serving all intermediate points and the off-route point of Phillipsburg, N.J., between Philadelphia, Pa., and Baltimore, Md., serving the intermediate point of Clifton Heights, Pa.

Between Gettysburg, Pa., and Hanover, Pa., serving the intermediate point of McSherrystown, Pa., between Lancaster, Pa., and Easton, Pa., serving the intermediate point of Bethlehem, Pa., and the off-route point of Fleetwood, Pa., between Sunbury, Pa., and Oxford, Pa., serving all intermediate points and the off-route point of Cressona, Pa., between Baltimore, Md., and Gettysburg, Pa., serving the intermediate point of Littlestown, Pa., between State Road, Del., and Milford, Del., serving the intermediate point of Dover, Del., between Philadelphia, Pa., and Trenton, N.J., serving the intermediate point of Camden, N.J., and the off-route point of Riverside, N.J., between Trenton, N.J., and Easton, Pa., serving the intermediate point of Phillipsburg, N.J., between Camden, N.J., and Bridgeton, N.J., serving the intermediate point of Woodbury, N.J., and the off-route point of Vineland, N.J., between Lafayette, Ohio, and Elyria, Ohio, serving the intermediate point of Mansfield, Ohio, between Columbus, Ohio, and Hancock, Md., serving the intermediate points of Cambridge, Ohio, and Wheeling, W. Va., between Lisbon, Ohio, and Deerfield, Ohio, serving the intermediate point of Salem, Ohio, but with no service at Deerfield, between Pittsburgh, Pa., and Washington, Pa., serving no intermediate points and with no service at Washington, between New Alexandria, Pa., and Uniontown, Pa., serving no intermediate points and with no service at the termini, between Lewistown, Pa., and Meadville, Pa., serving no intermediate points and with no service at Meadville, between Warfordsburg, Pa., and Selinsgrove, Pa., serving the intermediate points of McConnellsburg and Lewistown, Pa., between Harrisburg, Pa., and Baltimore, Md., serving the intermediate point of York, Pa., between Gap, Pa., and Wilmington, Del., serving the intermediate point of Cochranville, Pa., between Allentown, Pa., and Pittston, Pa., serving the intermediate point of Wilkes-Barre, Pa., between York Springs, Pa., and Littlestown, Pa., serving the intermediate point of Hanover, Pa., between Newark, N.J., and New York, N.Y., serving all intermediate points, between Newark, N.J., and Morrisville, Pa., serving all intermediate points, and the off-route point of Hightstown, N.J.; over numerous alternate routes for operating convenience only. THE MASON & DIXON LINES, INCORPORATED, is authorized to operate as a *common carrier*, in Tennessee, North Carolina, Georgia, Virginia, New York, New Jersey, Maryland, Pennsylvania, South Carolina, Ohio, Indiana, Alabama, Delaware, Kentucky, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10109. Authority sought for control and merger by HOUFF TRANSFER, INCORPORATED, Post Office Box 91, Weyers Cave, Va. 24486, of the operating rights and property of BOWARD TRUCK LINE, INC., c/o M. B. Morgan, 201 Azar Building, Glen Burnie, Md. 21061, and for acquisition by C. E. HOUFF, also of Weyers Cave, Va., of control of such rights and property through the transaction. Applicants' attorney: Harold G. Hernly, 711 14th Street NW., Washington, D.C. 20005. Operating rights sought to be controlled and merged: *Plumbing and heating supplies and equipment*, as a *common carrier*, over regular routes, from Bayonne, N.J., and Lansdale, Pa., to Staunton, Va., serving the intermediate point of Baltimore, Md., and the off-route point of Trenton, N.J., restricted to pickup only; *general commodities*, excepting, among others, household goods, but not excepting, commodities in bulk, over irregular routes, between Staunton, Va., and points in Augusta County, Va., within 50 miles of Staunton, on the one hand, and, on the other, Washington, D.C., certain specified points in Maryland, Pennsylvania, and points in North Carolina, South Carolina, and West Virginia, between points in Rockbridge and Rockingham Counties, Va., on the one hand, and, on the other, Washington, D.C., certain specified points in Maryland, Pennsylvania, and points in North Carolina, South Carolina, and West Virginia; *livestock*, from Harrisonburg and Waynesboro, Va., and points within 20 miles of Waynesboro, to Baltimore, Md.; *sugar*, from Baltimore, Md., to Waynesboro, Va., from Norfolk, Va., to Lexington and Staunton, Va.; *fresh apples*, from Waynesboro, Va., and points within 25 miles of Waynesboro, to New York, N.Y., Philadelphia and Pittsburgh, Pa., and points in North Carolina, South Carolina, and West Virginia.

Apple products, in containers, from Waynesboro, Va., to Baltimore, Md., Philadelphia, Pa., and points in North Carolina, South Carolina, Tennessee, and West Virginia; *apples*, from certain specified points in Virginia, to New York, N.Y., Philadelphia and Pittsburgh, Pa., Baltimore, Md., Washington, D.C., certain specified points in West Virginia and North Carolina; *new furniture*, from Staunton and Waynesboro, Va., to Washington, D.C., Wilmington, Del., certain specified points in New Jersey, Maryland, New York, points in Allegheny County, Pa., and those in that part of Pennsylvania on and east of U.S. Highway 11; *furniture finishing materials*, from Parlin, N.J., and Philadelphia, Pa., to Staunton and Waynesboro, Va.; *alcohol*, from Baltimore, Md., to Staunton

and Waynesboro, Va.; *veneer*, from Norfolk, Va., to Staunton and Waynesboro, Va.; *glue*, from Philadelphia and Williamsport, Pa., to Staunton and Waynesboro, Va.; *such commodities* as are sold by wholesale and retail grocery and food business houses, from Baltimore, Md., to Staunton and Lexington, Va.; *canned goods*, from Swedesboro, N.J., to certain specified points in Virginia, and Bluefield and Princeton, W. Va., from certain specified points in Maryland, to certain specified points in Virginia, from Baltimore, Md., to Clifton Forge, Va.; *roofing*, from York, Pa., to Staunton and Lexington, Va.; *flour*, from Waynesboro, Va., and points within 10 miles of Waynesboro, to points in North Carolina, from Swoope, Va., to points in North Carolina on and east of U.S. Highway 29; *lumber*, from points within 10 miles of Franklin, W. Va., including Franklin, and certain specified points in Virginia, to certain specified points in Pennsylvania, Baltimore, Md., and Newport News, Va., from Pendleton, Va., to Baltimore, Md., and Washington, D.C.

Wool, from certain specified points in Virginia, and West Virginia, to Roanoke, Va., Baltimore, Md., Bristol and Philadelphia, Pa., Providence, R.I., Boston, Mass., and Elkins, N.C.; *junk*, from Staunton, Va., to Maurer, N.J., Philadelphia, Pa., and Baltimore, Md.; *fertilizer*, from Baltimore, Md., to Harrisonburg and Staunton, Va.; *fireworks*, from Elkton, Md., to Staunton and Lexington, Va.; *pickles*, from Mount Olive, N.C. to points in that part of Virginia on and west of U.S. Highway 1; *shotguns and small arms ammunition*, from New Haven, Conn., to Staunton, Va. HOUFF TRANSFER INCORPORATED, is authorized to operate as a *common carrier* in Pennsylvania, Maryland, Virginia, West Virginia, New York, Delaware, Alabama, Georgia, Florida, Kentucky, Maryland, Louisiana, Illinois, Indiana, New Jersey, North Carolina, Ohio, South Carolina, Tennessee, Massachusetts, and the District of Columbia. Application has not been filed for temporary authority under section 210a (b). NOTE: See also MC-F-8836 (WILSON TRUCKING CORP.—PURCHASE (PORTION)—BOWARD TRUCK LINE, INC.), published in the August 12, 1964, issue of FEDERAL REGISTER, on page 11558. This authority granted pursuant to Division 3 report and order, February 14, 1967, and consummated February 21, 1968. Certificate not issued yet.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 68-5209; Filed, Apr. 30, 1968; 8:47 a.m.]